

L A W S

OF THE

TERRITORY OF UTAH,

PASSED AT THE

TWENTY-EIGHTH SESSION OF THE LEGISLATIVE ASSEMBLY,

HELD AT

The City of Salt Lake, the Capital of said Territory,
Commencing January 9. A. D. 1888, and
Ending March 8, A. D. 1888.

PUBLISHED BY AUTHORITY.

SALT LAKE CITY:

TRIBUNE PRINTING AND PUBLISHING Co.

1888.

CERTIFICATE OF AUTHENTICATION.

TERRITORY OF UTAH, }
SECRETARY'S OFFICE. } ss.

I, WM. C. HALL, Secretary of the Territory of Utah, do hereby certify that the printed laws, and joint resolution and memorial, contained in this volume, are true, correct, and full copies of all the enrolled laws, and of the joint resolutions and memorials passed at the Twenty-eighth regular session of the Legislative Assembly of said Territory, begun and held at the City of Salt Lake, the capital of said Territory, on the 9th day of January, A. D. 1888, and ending on the 8th day of March, A. D. 1888.

In testimony whereof, I have hereunto set my hand and affixed the great seal of said Territory.

[L. s.] Done at the City of Salt Lake, the capital of said Territory of Utah, this 9th day of May, A. D. 1888.

WM. C. HALL,
Secretary of Utah Territory.

FEDERAL OFFICERS OF UTAH TERRITORY.

GOVERNOR:

CALEB W. WEST.

SECRETARY:

WILLIAM C. HALL.

JUDGES OF THE SUPREME COURT:

Chief Justice:

CHARLES S. ZANE, - - - THIRD DISTRICT

Associate Justices:

JACOB S. BOREMAN, - - - SECOND DISTRICT

H. P. HENDERSON, - - - FIRST DISTRICT

UNITED STATES MARSHAL:

F. H. DYER.

UNITED STATES ATTORNEY:

GEORGE S. PETERS.

SURVEYOR GENERAL:

WILLIAM G. BOWMAN.

REGISTER OF THE LAND OFFICE:

DAVID WEBB.

RECEIVER OF PUBLIC MONEYS:

G. W. PARKS.

UNITED STATES DEPUTY REVENUE COLLECTOR:

O. J. HOLLISTER.

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L A W S

OF THE

TERRITORY OF UTAH

PASSED AT THE

Twenty-eighth Session of the Legislative Assembly.

CHAPTER I.

COMPILATION.

AN ACT to provide for the Compilation of the Laws of Utah Territory.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Samuel R. Thurman, Charles C. Richards, Enos D. Hoge, Luther F. Tuttle and John E. Carlisle are hereby appointed and constituted a Committee to compile, during the present session of the Legislative Assembly, all the public acts, laws and resolutions in force in said Territory, including those passed and approved during the present session of said Assembly.

Names of
Committee.

SEC. 2. Said Committee are hereby authorized to employ such professional and clerical assistance as may be necessary for the accomplishment of said compilation, and shall report to said Legislature from time to time during said session such portions of said work as may be completed; and report the whole thereof, systematically arranged and compiled, on or before the first day of March, A. D. 1888.

Authority of
Committee.

SEC. 3. Said compilation shall be subject to the approval of the said Legislature and said Committee shall at all time be under the direc-

Approval by
Legislature.

tion and control of the same, and the compensation of those employed by said Committee and the expenses of said work shall be as determined by the Legislature.

SEC. 4. That if it shall be found by said Committee to be impracticable to complete said work within the time specified in this act, or during said session, said Committee shall continue the work of said compilation and complete and publish as soon as practicable the same, together with the Organic Act of this Territory, the Declaration of Independence, Constitution of the United States, and such other laws of the United States as the Committee may deem specially applicable to the Territories.

Publication,
to whom let.

SEC. 5. Said publication shall be in suitable form, in volumes substantially bound, with marginal notes and proper index, not exceeding five thousand copies; the printing and binding of said work shall be let by said Committee to the lowest responsible bidder resident in Utah Territory.

Books, how
disposed of.

Who entitled
to receive.

SEC. 6. Said books, when completed, shall be placed by the Committee in the hands of the Auditor of Public Accounts, to be by him distributed to the Governor, Secretary and Judges of the Supreme Court of this Territory, Members of the present Legislative Assembly, Members of the Utah Commission, and Territorial, County and Precinct Officers, one copy each: and that the Auditor retain two hundred copies for the use of future Legislative Assemblies, and place the residue of said books in the hands of the Territorial Treasurer, to be sold by him to all other persons at such rate as said Committee shall direct, and place the proceeds of such sales in the Territorial Treasury.

Proceeds of
sales.

Auditor, what
notice to give.

SEC. 7. The Auditor of Public Accounts shall, before distributing the books herein provided to be furnished to County and Precinct Officers, cause notice to be inserted in each book that it is the property of this Territory, and is furnished for the use of the office to which it is

delivered, and must be transmitted by the incumbent thereof, at the expiration of his term, to his successor in office.

SEC. 8. It shall be the duty of each County and Precinct Officer who receives any volume of the laws of this Territory, as hereinbefore provided, to carefully preserve the same and at the expiration of his term of office to immediately deliver it to his successor in office; and any such County or Precinct Officer who wilfully neglects or refuses to so deliver such book or books to his successor, upon demand being made therefor, shall be deemed guilty of a misdemeanor, and may be fined in any sum not exceeding fifty dollars and the costs of prosecution.

Duty of
County and
Precinct Off-
cers to turn
over books.

Approved January 19, 1888.

CHAPTER II.

RAPE.

AN ACT to Amend Sec. 1964, Chapter I, Title IX, of the Compiled Laws, relating to Rape.

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That subdivision one of Section 1964 of the Compiled Laws of Utah Territory be amended so as to read as follows:

1st. When the female is under the age of thirteen years.

Approved January 26, 1888.

CHAPTER III.

APPROPRIATIONS.

AN ACT Making Appropriations for General Purposes.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That the sums of money are hereby appropriated out of

any money in the Territorial Treasury, not otherwise appropriated, for the objects hereinafter expressed:

1. For salary of Territorial Superintendent, and Commissioner of Schools, for 1886 and 1887,.....\$ 1,500.00
2. For salary of Auditor of Public Accounts for 1886 and 1887, . 3,000.00
3. For salary of Territorial Librarian for 1886 and 1887,..... 500.00
4. For salary of Territorial Treasurer for 1886 and 1887,..... 1,500.00
5. For incidental expenses of the offices of Auditor, Treasurer, Librarian, Sealer of Weights and Measures, and Recorder of Marks and Brands for 1886 and 1887, or so much thereof as by the examination of the Auditing Committee of the Legislative Assembly shall be found to have been expended,..... 1,000.00
6. For rent of rooms for last named officers for 1886 and 1887,..... 1,200.00
7. To pay deficiency of witnesses in criminal cases, and jurors in criminal cases, for 1884 and 1885, as reported by the Auditor of Public Accounts..... 22,068.22
8. For Messenger and expenses of the Executive Office for the years 1886 and 1887, 2,250.00
9. For incidental expenses of the offices of Auditor and Territorial Treasurer, in the years 1884 and 1885, to be drawn on the order of Nephi W. Clayton,..... 97.10
10. James Jack and Nephi W. Clayton, for witness fees and mileage in the case of the People, etc., vs. Josiah Rogerson, and others,... 115.50
11. Zera Snow, for legal services in the case of the People vs. Mar-

	shall and others,.....	150.00
12.	To Benjamin Bachman, Deputy Clerk of the First Judicial District, for attendance at Court during the years 1884 and 1885, and for fees and services during the same period, as per bill rendered,	758.25
13.	To J. R. Wilkins, Clerk of the Second Judicial District, for attendance at Court during the years 1884 and 1885, and for fees and other services, as per bill rendered,	1,290.02
14.	To E. T. Sprague, for fees as Clerk of the Supreme Court of the Territory of Utah, in Territorial criminal cases, for the years 1877 to 1885 inclusive,.....	240.00
15.	To J. R. Wilkins, for statement of fines, forfeitures collected, and mode of paying jurors, etc., in the Second Judicial District, as per bill rendered,.....	5.00
16.	To John M. Zane, Clerk of the District Court for the Third Judicial District, for fees in cases brought in said court under the Criminal code of the Territory, during the years 1884 and 1885,..	1,141.80
17.	To John W. Turner, for services and expenses incurred in the prosecution of Frederick Hopt, in the years 1884 and 1885,.....	718.25
18.	To L. W. Roundy, for payment of Auditor's warrant No. 4330, dated December 11th, 1875, on account of Harrisburg and Bellevue Road,.....	8.50
19.	To Wm. Fotheringham, for examining records in the Second Judicial District Court, in the years 1884 and 1885,.....	150.00

20.	To L. H. Reed, Jr., ex-assessor and collector of San Juan County, for relief on account of delinquent taxes for the year 1884,....	10.75
21.	To Gibbs and Irvine, for services as reporters, in connection with the visit of the Wyoming Legislature in 1884,.....	35.00
22.	To Daniel Harrington, for services as minute clerk of the House for the twenty-seventh session, to be drawn on the order of the Speaker of the House,.....	300.00
23.	To Daniel Leatham, Usher of the House, for services for the twenty-seventh session, to be drawn upon the order of the Speaker of the House,.....	240.00
24.	To William Ashton, assessor and collector of Uintah County, for relief on account of delinquent taxes, for the years 1880, 1882, 1884 and 1885,.....	60.87.
25.	To A. G. Johnson, assessor and collector of Tooele County, for relief on account of delinquent taxes for the year 1884,.....	95.49
26.	To J. D. Smith, ex-assessor and collector of Millard County, for relief on account of delinquent taxes for the years 1882 and 1884,.....	22.50
27.	For transportation of safe from Ogden to Beaver, for use of the Second District Court, or so much thereof as may be necessary, to be drawn on the order of the clerk of said Court, vouchers to accompany the orders on the Auditor for payment,.	200.00
28.	For the purpose of educating deaf mutes in the University of Deseret, to be drawn and expend-	

	ed by the Chancellor and Board of Regents,.....	6,000.00
29.	For the Deseret University buildings, to be drawn and paid out under the direction of the Chancellor and Board of Regents,....	60,000.00
30.	For contingent expenses of the House, twenty-seventh session, to be drawn on the order of the Speaker of the House,.....	1,228.50
31.	To J. H. Parry & Co., for printing during the twenty-sixth session,	86.60
32.	To A.E. Merriam, assessor and collector of San Pete County, to reimburse him for uncollectible Territorial taxes, paid by him into the Treasury,.....	224.30
33.	To W. A. C. Bryan, for engrossing during the twenty-sixth session,.	18.00
34.	To Star Printing Co., for printing during the twenty-sixth session,.	82.50
35.	To Deseret News Co., for records and blanks for Auditor's Office, (blanks furnished clerks of District courts.).....	53.00
36.	To V. L. Halliday for services as Minute Clerk of the Council, for the twenty-seventh session,.....	300.00
37.	To Alfred Ridges, for services as usher for the Council for the twenty-seventh session, to be drawn upon the orders of the President of the Council,.....	240.00
38.	For contingent expenses of the Council for the twenty-seventh session, to be drawn upon the orders of the President of the Council	508.66
39.	For the relief of Kane County, on account of the Legislature having changed its boundary lines, to be drawn by the county court	

	of Kane County,.....	783.81
40.	To O. G. Snow, Collector of Box Elder County, for relief on account of delinquent taxes for the years 1880 to 1884, inclusive,..	249.58
41.	To W. N. Dusenberry, services in compilation, twenty-sixth session,	72.00
42.	To Samuel Slaughter, for court certificates of witness fees in the case of the Territory of Utah vs. Josiah Rogerson,.....	28.20
43.	To John Snowball, assessor and collector of Rich County, for relief on account of uncollectible taxes,.....	50.65
44.	To A. C. Emerson, clerk of the First District Court, fees in Territorial criminal business for the years 1884 and 1885.....	549.45
45.	To John L. Brasher, ex-assessor and collector of Emery County, for relief on account of uncollectible taxes,.....	79.21
46.	To John D. Kilpack, assessor and collector of Emery County, for relief on account of uncollectible taxes,.....	44.95
47.	To the Deseret News Company, printing during the twenty-seventh session,.....	1,515.96
48.	To Utah County, to reimburse said county for rent of Court House for the First Judicial District Court, from June 30th, 1884, to July 1st, 1886,.....	1,000.00
49.	For payment of witnesses and jurors in criminal cases in the District Courts of the Territory for the years 1886 and 1887, to be drawn in equitable proportions to each district, to be determined upon by the Auditor	

of Public Accounts,..... 40,000.00

Provided, That the above named amount shall be drawn only upon vouchers duly authenticated for services as witnesses and jurors in cases in which the Territory is liable, therefor; *Provided further*, that jurors in criminal cases, where the Territory is liable therefore, shall be paid \$2. per day for each day's actual attendance at court, and twenty cents per mile one way for the distance necessarily traveled from the place of summons to place of holding court.

50. To N. W. Clayton, to reimburse him for clerk hire in the Auditor's office, for the years 1882, 1883, 1884, 1885,..... 3,000.00

51. To the Auditor of Public Accounts, to pay legal counsel employed for the Territory, for the years 1886 and 1887,..... 1,000.00

SEC. 2. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved February 7, 1888.

CHAPTER IV.

RAILROAD CARS.

AN ACT Amending Chapter 26 (Laws of 1880) entitled, "An Act to Punish Persons Entering into Railroad Cars, in certain cases," approved February 20th, 1880.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Chapter 26 of the Session Laws of 1880, of the Territory of Utah, entitled "An Act to Punish Per-

sons Entering into Railroad Cars, in certain cases," be amended to read as follows:

Clandestinely entering cars with intent to ride, or having entered without knowledge or consent with intent to defraud a misdemeanor.

Section 1. That every person who clandestinely enters into or upon any railroad car, for the purpose and with the intention of riding, or being transported thereon, or who having entered in or upon any railroad car rides over any railroad line, or portion thereof, in this Territory, without the knowledge and consent of the company, person or persons owning or operating such car or railroad, and with the intention to defraud such company, or person, of the fare or compensation for such transportation, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail, not exceeding fifty days, or by fine in any sum less than fifty dollars, or by both fine and imprisonment, at the discretion of the court.

Punishment.

Servant aiding, etc., guilty of misdemeanor.

SEC. 2. Every person, being at the time a servant or employee of any railroad company, who aids, abets, assists, counsels, advises or encourages another person to enter into or ride upon any railroad car for the purpose, with the intention, and in a manner specified in the preceding section, shall be guilty of a misdemeanor.

Approved February 14th, 1888.

CHAPTER V.

GAMING.

AN ACT Amending Section 2006, Chapter X, Title IX, of the Compiled Laws of the Territory of Utah, relating to Gaming.

Gaming.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section two thousand and six (2006) Chapter X, Title IX, of the Compiled Laws, be and the same is hereby amended, so as to read as follows: (2006) Sec. 176. Every person who deals, plays or car-

ries on, opens or causes to be opened, or who conducts, either as owner or employee; whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge it noire, rondo, or any game played with cards, dice, or any other device, for money, checks, credit or any other representative value, is guilty of a misdemeanor.

Playing, what games is a misdemeanor.

Approved February 16th, 1888.

CHAPTER VI.

EVIDENCE.

AN ACT Amending Sections 1167, 1168 and 1173 of Chapter III, Title X of "An Act Revising the Code of Civil Procedure of Utah Territory," approved March 13, 1884.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 1167 of "An Act Revising the Code of Civil Procedure of Utah Territory," approved March 13th, 1884, be amended so as to read as follows:

Section 1167. Books purporting to be printed or published under the authority of a State, Territory or foreign country, and to contain the Statutes Code or other written law of said State, Territory or country, or proved to be commonly admitted in the tribunals of such State, Territory or country as evidence of the written law thereof, are admissible in this Territory as evidence of such law.

What books, and when admissible in evidence.

SEC. 2. That Section 1168 of said Act, be amended so as to read as follows:

Section 1168. A copy of the written law or other public writing of any State, Territory or foreign country, attested by the certificate of the officer having charge of the original, under the public seal of the State, Territory or country, or attested by the certificate of the

Written laws or public writings of any State, Territory or foreign country; how admissible in evidence.

keeper thereof and the seal of his office annexed, if there be a seal, together with the certificate of the presiding justice of the county, parish or district, in which such office may be kept, or of the Governor, Secretary of State, or Chancellor, or, if of a foreign country, the certificate of the Minister or Ambassador, or a Consul, Vice-Consul, or Consular Agent of the United States in such foreign country, that the attestation of such keeper is in due form and by the proper officer, is admissible as evidence of such law or writing.

SEC. 3. That Section 1173 of said Act be so amended as to read as follows:

Judicial record of foreign country; how attested.

Section 1173. A judicial record of a foreign country may be proved by the attestation of the clerk with the seal of the court annexed, if there be a clerk and seal, or of the keeper of the record, with the seal of his office annexed, if there be a seal, together with a certificate of the Chief Judge or presiding Magistrate, or Minister or Ambassador, or a Consul, Vice-Consul, or Consul Agent of the United States, in such foreign country, that the attestation is in due form and by the proper officer.

Approved February 16th, 1888.

CHAPTER VII.

APPEALS.

AN ACT Amending Title XII, Chapter II, Section 855, of an Act Revising the Code of Civil Procedure of Utah Territory relating to Appeals from Justices' Courts to the District Court.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 855 of an Act entitled "An Act Revising the Code of Civil Procedure of Utah Territory," be and is hereby amended to read as follows:

Section. 855. All causes appealed to the District Court shall be heard anew in said court, and said court may regulate by rule the practice in such cases in all respects not provided for by statute. *Provided*, That pleadings in the District Court in said cases may be amended in all respects in the same manner, and upon the same terms as are now or hereafter may be provided for the amendment of pleadings, in cases originally commenced in the District Court.

Appealed cases to be heard anew.

Pleadings may be amended in District Court. Appellate Court may prescribe rules of practice on appeal.

SEC. 2. This act shall be in force from and after its approval by the Governor, and all laws in conflict with this act are hereby repealed.

Approved February 16th, 1888.

CHAPTER VIII.

DEAD ANIMALS.

AN ACT Amending Sections 2 and 3, Chapter 6, Title IX of the Compiled Laws of Utah, relating to the Removal or Burial of Dead Animals.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:*

That an Act entitled "An Act Providing for the Removal or Burial of Dead Animals," approved February 18, 1870, be, and the same is hereby

Dead animals.

amended by inserting after the word "ditch," in line 5, Section 2, of said act, the following: "And it shall be unlawful for any person removing such dead animal, to deposit the same on the land of another without his consent; and a failure to remove it therefrom upon notice of the owner or possessor of such land, shall constitute a misdemeanor, punishable as in Section three of this Act provided;" and by adding to Section three the following: "And the judgment requiring the defendant to pay such fine or the fine and costs of suit, may also direct that he be imprisoned in the county jail until such fine, or such fine and

Unlawful to deposit on land of another.

Fine and imprisonment.

costs, as the case may be, are paid, in proportion of one day's imprisonment for every dollar of the fine and costs."

This Act shall take effect and be in force on and after its passage and approval.

Approved February 20th, 1888.

CHAPTER IX

REHEARING.

An ACT Amending Section 847 of Chapter I, Title XII, of the Code of Civil Procedure, providing for a Hearing on Appeals in the Supreme Court.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 847, Chapter I, Title XII, of the Code of Civil Procedure, be amended by adding thereto the following: *Provided*, That if, within 20 days after filing of the decision with the clerk of said court, or such further time as the court or one of the justices may allow, if the court be not in session, the party against whom the judgment has been entered may move the court for a rehearing of said cause, by his petition in writing filed for that purpose.

Rehearing.
Petition for.
When and by
whom granted.

Petition oper-
ating as a stay.
What the peti-
tion shall con-
tain.

Such petition shall operate as a stay of proceedings until a decision of the motion therein. The petition shall state the grounds upon which it is based, and shall present at large the points, authorities and reasons relied upon therefor, and shall be supported by the certificate of the attorney of the party, if he has appeared by attorney, to the effect, that in his opinion, there is good reason to believe the judgment objected to is erroneous and the cause ought to be re-examined.

Remittitur.

Provided further, That in all cases where, on notice to the party against which the judgment is entered in any case, the party does not signify an intention to move for a rehearing, the court may order a remittitur at any time.

Approved February 20th, 1888.

CHAPTER X.

CRIMES AGAINST ELECTIVE FRANCHISE.

AN ACT to prevent Crimes against the Elective Franchise.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That every person charged with the performance of any duty under the provisions of any law of this Territory or of Congress relating to elections in this Territory, who willfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws is, unless a different punishment for such acts or omissions is prescribed by law, punishable by fine not exceeding one thousand dollars, or by imprisonment in the penitentiary not exceeding two years, or by both.

Punishment
for violation
of this Act.

SEC. 2. Every person who willfully causes, procures, or allows himself to be registered in any precinct, or city register list in any county, knowing himself not to be entitled to such registration; and every person who willfully causes, procures, advises, encourages or assists any other person to be registered in any precinct or city register list in any county, knowing or believing such person not to be entitled to such registration, is punishable by fine not exceeding one thousand dollars, or by imprisonment in the penitentiary not exceeding one year, or by both. In all cases where on the trial of a person charged with any offense under the provisions of this section, it appears in evidence that the accused stands registered in any such precinct or city register list in such county, without being duly qualified and entitled to such registration, the Court upon conviction must order such registration to be canceled.

Fraudulent
registration.
How punished.

Cancellation of
registration.

SEC. 3. Every person not entitled to vote who fraudulently votes, and every person who

What a felony.

votes more than once at any one election, or knowingly hands in two or more tickets folded together, or changes any ballot after the same has been deposited in the ballot box, or adds or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted; or adds to or mixes with, the ballots lawfully polled, other ballots, while the same are being counted or canvassed, or at any other time, or fraudulently carries away or destroys, or attempts to carry away or destroy, any poll list or ballots, or ballot box, or willfully detains, mutilates or destroys any election returns, or in any manner so interferes with the officers holding such election, or conducting such canvass, or with the voters lawfully exercising their rights of voting at such election, as to prevent such election, or canvass from being fairly held or lawfully conducted, is guilty of felony, and shall be punished by a fine not exceeding one thousand dollars or by imprisonment in the penitentiary for a term not exceeding two years or by both.

What a misdemeanor.

SEC. 4. Every person not entitled to vote who fraudulently attempts to vote, or who, being entitled to vote, attempts to vote more than once at any election, is guilty of a misdemeanor.

What a misdemeanor.

SEC. 5. Every person who procures, aids, encourages, assists, counsels or advises another to give or offer his vote at any election knowing or believing that the person is not qualified and entitled to vote, is guilty of a misdemeanor.

What acts are punishable by imprisonment in Penitentiary.

SEC. 6. Every officer or judge of election who aids in changing or destroying any poll list, or in fraudulently placing any ballots in the ballot box, or taking any therefrom, or adds or attempts to add any ballots to those legally polled at such election, either by fraudulently introducing the same into the ballot box, before or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or with, the ballots polled, any other ballots, while

the same are being counted or canvassed, or at any other time, or allows another to do so when in his power to prevent it, or fraudulently carries away or destroys, or knowingly allows another to fraudulently carry away or destroy any poll list, ballot box, or ballots lawfully polled, is punishable by imprisonment in the penitentiary for not less than two nor more than seven years.

SEC. 7. Every judge of an election who, after receiving the ballot of any qualified elector who is duly registered and found to be entitled to vote at such election, neglects to deposit such ballot in the ballot box, or who, previous to putting the ballot of an elector in the ballot box, attempts to find out any name on such ballot, or who opens or suffers the folded ballot of any elector, which has been handed in, to be opened or examined, previous to putting the same into the ballot box, or who makes or places any mark or device on any ballot with the view to ascertain the name of any person for whom the elector has voted, or who, without the consent of the elector discloses the name of any person, which such judge of election has fraudulently or illegally discovered to have been voted for by such elector, is punishable by a fine of not less than fifty nor more than five hundred dollars.

What acts of
Judge of Election
punish-
able.

SEC. 8. Every person who forges or counterfeits returns of any election purporting to have been held at any precinct or city in this Territory where no election was in fact held, or willfully substitutes, forges or counterfeit returns of election in the place of the true returns, for a precinct or city where any election was actually held, is punishable by imprisonment in the penitentiary for a term of not less than two nor more than ten years.

Forgery of
returns.
How punished.

SEC. 9. Every person who willfully adds to or subtracts from the votes actually cast at an election, in any returns, or who alters such returns, is punishable by imprisonment in the penitentiary for not less than one nor more than five years.

Adding to, or
substituting, or
altering re-
turns.
How punished.

Aiding or
abetting.
How punished.

SEC. 10. Every person who willfully aids or abets in the commission of any of the offenses mentioned in the four preceding sections, is punishable by imprisonment in the county jail for the period of six months, or in the penitentiary for a period not exceeding two years.

What a misdemeanor.

SEC. 11. Every person who, by force, threats, menaces, bribery, or any corrupt means, either directly or indirectly, attempts to influence any elector in giving his vote or to deter him from giving the same, or, who being a judge of any election, while acting as such, induces, or attempts to induce, any elector, either by menace or reward, or promise thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor.

Misdemeanor.

SEC. 12. Every person who willfully violates any of the provisions of the laws of this Territory relating to elections, is, unless a different punishment for such violation is prescribed by law, guilty of a misdemeanor.

SEC. 13. All acts or parts of acts in conflict with this act are hereby repealed.

This act shall take effect from and after its passage and approval.

Approved February 20th, 1888.

CHAPTER XI.

EMINENT DOMAIN.

AN ACT Amending Section 1105, Title 7, of an Act Revising the Code of Civil Procedure of Utah Territory, relating to Eminent Domain.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 1105, paragraph 2, line 3, be amended by inserting the word "reservoir" between the word "district" on the second line, and the word "canals" on the third line; also, that paragraph 3 be

amended by inserting the word "reservoir" between the words "railroads" and "canals" on the third line.

Approved February 21, 1888.

CHAPTER XII.

TERRITORIAL PRISONERS.

AN ACT Amending Section 2, Chapter 7, Laws of 1886, of an Act entitled, "An Act for the Benefit of Territorial Prisoners Released from the Penitentiary."

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 2, Chapter 7, Laws of 1886, be amended to read as follows: Section 2. Upon the expiration of the term of imprisonment of each convict, the Warden of the Penitentiary shall make out and file with the Auditor of Public Accounts a certificate properly numbered, showing the date of its issuance, the prisoner for whom the money is drawn, the offense for which he was convicted, the date of his admission to the penitentiary, and the day his term of imprisonment expired. The Auditor shall, upon the filing of such certificate, issue a warrant upon the Territorial Treasury for the payment of said money: *Provided*, That of said money the Warden shall expend at least ten dollars in the purchase of clothing for said prisoner.

Certificate by
Warden.

Warrant by
Auditor.

SEC. 2. This act shall take effect from and after its passage and approval.

Approved February 21, 1888.

CHAPTER XIII.

APPEALS FROM JUSTICES' COURTS.

AN ACT Amending Section 91, 92 and 93, of Chapter IX, of An Act Revising the Proceedings in Justices' Courts and Providing for Appeals to District Courts in Criminal Cases, Approved March 13th, 1884.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 91 of Chapter 9 of an Act Revising the Proceedings in Justices' Courts, and Providing for Appeals to District Courts in criminal cases, approved March 13, 1884, be, and it is amended by adding thereto, after the last word of said Section, the following; And answer the charge of which he has been convicted, and appear in whatever court it may be prosecuted, and will at all times hold himself amenable to the orders and process of the court, and if convicted will appear for judgment, and render himself in execution thereof: or, if he fails to perform either of these conditions, that the sureties will pay to the people of the Territory of Utah, or to the municipal corporation, as the case may be, the sum specified in the undertaking. But the appeal shall not be effectual for any purpose whatever unless the party taking the appeal shall cause the papers in the case to be filed in the District Court within thirty days after the appeal is perfected.

In case the party taking the appeal neglects to have the papers filed in the District Court, within thirty days next after the appeal is perfected, then the other party to the suit may have the papers filed, and shall be entitled to an order dismissing the appeal, and may at once proceed to obtain execution of the judgment of the Justices Court.

SEC. 2. That Section 92 of said Act is hereby amended to read as follows:

Sec. 92. The Justice may cause all material

witnesses to enter into an undertaking with at least two sufficient sureties, to appear at the time and place of trial, in whatever court the said charge may be prosecuted, conditional, that they will at all times render themselves amenable to the orders and process of the court, or if they fail to perform either of these conditions, that the sureties shall pay to the people of the Territory, or to the municipal corporation, as the case may be, the sum specified in the undertaking.

Justices may
bind witnesses.

The justice shall forthwith transmit all the papers in the case, together with a certified copy of the entries in his docket to the clerk of the District Court to which the case is appealed. On receipt of the papers, the clerk shall forthwith file them upon payment of the fees therefor and upon the rendition of judgment in the case; costs, both of the District and Justices Courts, shall be taxed against the losing party, in the same manner as costs are taxed in civil causes. And the fine imposed in said District Court together with said Justices costs shall be transmitted to the county or municipal corporation, as the case may be, from which such case was appealed.

Transmit
papers.

Costs.

SEC. 3. That Section 93 of said Act is hereby amended to read as follows:

Sec. 93. If on the appeal, any complaint is found to be insufficient or informal, it may be amended as a matter of right, or a new complaint filed by leave of the court, within such time as may be allowed, and no appeal shall be dismissed for any insufficiency or informality, in either the affidavit or undertaking, or both, if the defendant file a sufficient affidavit or undertaking in pursuance of any order of the court.

Amendment of
complaint.

All laws in conflict with this Act are hereby repealed.

Approved February 21, 1888.

CHAPTER XIV.

ATTACHMENTS.

AN ACT Amending Section 410 of "An Act entitled An Act Revising the Code of Civil Procedure of Utah Territory," relating to Attachments.

Grounds of
attachment.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 410 of an Act entitled "An Act Revising the Code of Civil Procedure of Utah Territory, approved March 13, 1884," be and is hereby amended by repealing all after the word "cases" in the 6th line of said section and enacting in lieu thereof the following: In an action upon a judgment or upon a contract express or implied, which is not secured by any mortgage or lien upon real or personal property situate or being in this Territory, or if originally so secured when such security has, without any act of the plaintiff or of the person to whom the security was given, become valueless; against a defendant who,

1. Is not residing in this Territory; or,
2. Stands in defiance of an officer, or conceals himself so that process cannot be secured upon him; or,
3. Has assigned, disposed of, or concealed or is about to assign, dispose of, or conceal, any of his property with intent to defraud his creditors; or,
4. Has departed, or is about to depart from the Territory to the injury of his creditors; or
5. Fraudulently contracted the debt, or incurred the obligation respecting which the action is brought;

Proceeds of
sale held.

Provided. That hereafter in the cases mentioned in subdivisions 3, 4, and 5, of this section, the cause of action shall for the purpose of securing the obligation be deemed to have accrued and the property attached, or its proceeds after disposition as provided in sections 420 and 421, of the act of which this is amendatory, may be held

subject to the judgment thereafter to be rendered, but no judgment shall be rendered thereon until such obligation shall by its terms become due.

SEC. 2. That section 422 of the act of which this is amendatory be and the same is hereby repealed.

Approved February 24, 1888.

CHAPTER XV.

REMOVAL OF COUNTY SEATS.

AN ACT Providing for the Removal of County Seats.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That whenever the inhabitants of any county of this Territory desire to remove the county seat of the county from the place it is fixed by law or otherwise, they may present a petition to the county court of their county praying such removal, and that an election be held to determine to what place such removal shall be made. Removal of county seat.

SEC. 2. If the petition is signed by qualified electors of the county equal in number to at least two-fifths of all the votes cast in the county at the last preceding general election, then the county court shall direct that at the first general election, to be held at least ninety days after the presentation of such petition, the question of the removal of such county seat shall be submitted to the qualified electors of such county. Petition, by whom signed and how many.

SEC. 3. The clerk of the county court, shall, within ten days after the making of such order by the county court, cause at least three notices to be posted up in each precinct of the county, notifying the qualified electors that at the approaching general election the question of the removal of the county seat of their county will be voted upon, and that at such election all Duty of county clerk.

those who favor a removal of the county seat must designate upon their ballots the place to which they desire such removal, and those who are opposed to the removal must so state upon their ballots.

Votes, how cast. SEC. 4. At the said general election each qualified voter may designate upon the same ballot which he uses to designate the county or precinct officers voted for, whether he favors the removal of the county seat or not; and if he favors a removal, he shall state to what place he desires such removal.

Judges of election. SEC. 5. At the closing of the polls the judges of election, or other officers who are entrusted by law with conducting the election and canvassing the votes, shall canvass and list all of the votes cast for and against such removal, and make out duplicate certificates specifying therein the number of votes cast in favor, and the number cast against such removal, and shall forthwith transmit by mail or other safe conveyance, to the clerk of the county court of the county whose county seat is sought to be removed, one of said certificates, and to the proper officer, whose duty it is or may be to receive, canvass and certify the returns of election for county and precinct officers of such county, the other certificate.

Canvass, how made. SEC. 6. The precinct judges of election or other officers whose duty it is or may be to receive, canvass and certify the returns of elections for precinct officers of such county, shall receive, canvass and certify the returns of such election, and shall issue, under their hands, a proper certificate, specifying the total number of votes cast in such county for the removal of the county seat; the number of votes cast in favor of each place, and the number cast against removal, and forthwith forward such certificate by mail to the clerk of the county court of the county in which such election was held.

Judges to canvass and forward returns. SEC. 7. The clerk of the county court of the county wherein such election has been held

On receipt of returns clerk to report to County court.

shall, at the first session of said court after receiving said certificate from the said election officers, present the said certificate, and the returns received by him from the several precincts, to the court, who shall canvass the returns; and if it appears therefrom, and from the certificate received from the said election officers, that two-thirds of all the votes cast for or against such removal, in said county, at such general election, were in favor of removing the county seat to any place, they shall forthwith declare the result of the election to be for a removal of the county seat to such place, (naming it,) and shall name a day, which shall not be less than thirty days nor more than ninety days distant, on which the county seat shall be removed to such place, (naming it,) and the clerk of such court shall keep a full record of such proceedings and of such certificate, and shall carefully preserve and file in his office the said certificate and original returns for future reference.

Duty of court and clerk on hearing report.

SEC. 8. When the election has been held, and two-thirds of the votes are not cast for some other place than that fixed by law as the former county seat, no second election for the removal thereof shall be held within four years thereafter.

Election once in four years.

SEC. 9. When the county seat of a county has been once removed by the vote of the people of the county, it may be again removed from time to time in the manner prescribed by this act, but no election shall be ordered to effect any such subsequent removal unless a petition praying an election is signed by qualified electors of the county equal in number to at least two-fifths of all the votes cast at the last preceding general election, nor unless at such election, when ordered, two-thirds of all the votes cast are in favor of some other place as the seat of the county, and such election, when so ordered, shall take place at the first general election held thereafter, nor shall two elections to effect such removal be held within four years.

Removal again. What necessary.

Limited to once in four years.

Willful neglect or refusal to comply, etc., by officer, a misdemeanor.

SEC. 10. Any officer who shall willfully neglect or refuse to comply with the provisions of this act shall be deemed guilty of a misdemeanor.

SEC. 11. All laws in conflict with this law are hereby repealed.

Approved February 25, 1888.

CHAPTER XVI.

RELEASE OF RIGHT OF DOWER.

AN ACT Providing for the Release of the Right of Dower.

Dower, how relinquished.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That in any conveyance of, or encumbrance upon real property by deed of the husband, the wife may join with him or his attorney-in-fact, in such deed, and her so joining her husband in such deed shall transfer and convey any and all rights of dower she may have in the property conveyed or encumbered in or by such deed; but to be valid, the signature of the wife must be witnessed, and she must acknowledge the execution thereof before some officer authorized to take such acknowledgment, in the same manner as an unmarried woman.

Power of attorney of married woman.

SEC. 2. A married woman may join in a power of attorney with her husband for the encumbrance, release or conveyance of lands, or of any interest therein; and said power of attorney shall be witnessed by at least one credible witness; acknowledged in the manner provided by law, and shall be entitled to record.

Validating certain deeds. Power of attorney and acknowledgments thereto heretofore made.

SEC. 3. That all instruments of writing which have been executed and acknowledged by married women before any officer authorized by the laws of this Territory to take acknowledg-

ments to instruments in writing effecting the title to real property in this Territory since the second day of March, 1887, and which purport to have been so executed and acknowledged for the purpose of encumbering, releasing or conveying their rights of dower in the real property described in such instruments, and all such instruments wherein the wife has executed and acknowledged an encumbrance, release or conveyance with her husband, or his attorney-in-fact, and such instrument purports to convey all their interest in the property described in such instrument, without referring to her right of dower, shall be regarded and considered as a sufficient and proper encumbrance, release or conveyance, as the case may be, of the right of dower of such married woman in such property, and all such instruments are hereby declared valid and effectual, in all respects for such purposes.

SEC. 4. This Act shall take effect upon its approval by the Governor.

Approved February 25, 1888.

CHAPTER XVII.

BOUNTIES, ANIMALS AND BIRDS.

AN ACT Providing Bounties for the Destruction of Certain Animals and Birds.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That the several county courts within the respective counties of this Territory are hereby authorized and empowered by an order made of record upon the minutes of such county court, to offer and pay rewards for the destruction of wild animals and English sparrows, within their respective counties, not to exceed one dollar each on lynxes, grey wolves and wild cats, fifty cents on coyotes, five dollars on mountain lions and bears, two

Bounties.
Amounts.

cents on jack rabbits and ground squirrels, ten cents on musk rats, minks, and weasels, five cents on gophers, and one quarter of a cent on English sparrows, as hereinafter provided.

SEC. 2. The person or persons who shall hereafter kill any of the above named wild animals, or said birds, in order to receive the reward mentioned in Section 1 of this Act, shall produce the head or scalp of such animal, with ears attached, or the head of such bird, before the county clerk in and for any county, as aforesaid.

It shall be the duty of such county clerk to diligently examine such person or persons, and such other witnesses as said county clerk may deem proper, on oath or affirmation, touching the time when, and the place where, such animal or bird was so taken and killed, and the circumstances thereof. If upon such examination the county clerk shall be satisfied that such animal or bird was taken and killed by the person or persons producing the head or scalp thereof, within the limits of the county for which said county clerk is qualified to act, he shall immediately cause such head or scalp to be destroyed, and shall issue a warrant on the treasury of such county for the reward offered in accordance with the provisions of this act, to the person or persons producing such head or scalp, *provided*, that any person or persons must present not less than three hundred scalps or heads of jack rabbits and ground squirrels, or not less than one hundred heads of English sparrows, at any one time, to entitle them to the reward offered in accordance with the provisions of this act.

How
determined.

County Clerk.

SEC. 3. The county clerk of each county shall keep a true account of the moneys paid out under this act, and the number of each species of animals or English sparrows for which bounties have been paid, and whenever the amount so paid reaches the sum of fifty dollars or more, said clerk shall present said account, sworn to by said clerk as being true and correct, to the

Territorial Auditor, who shall draw his warrant upon the Territorial Treasurer, for one half of said amount, which shall be paid by said Treasurer out of any moneys in the Treasury not otherwise appropriated, and forward the same to said county.

Auditor.
Territorial
Treasurer.

SEC. 4. Any county court may, at any time, set aside, vacate and rescind their order, or any part thereof offering and paying such rewards as are provided for in Section 1 of this act, or may reduce the amounts of such rewards: *Provided*, that an order be made of record to such effect upon the minutes of such court, and published in some newspaper having general circulation in said county, at least ten days before said action shall take effect.

County Court.

Approved March 3, 1888.

CHAPTER XVIII.

WHEN LAWS GO INTO EFFECT.

AN ACT Fixing the Time at which New Laws shall go into Effect.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That unless otherwise provided therein, all laws and resolutions which may hereafter be enacted by the Governor and Legislative Assembly of this Territory, shall go into effect and be operative at twelve o'clock midnight of the 31st day of May next after their passage and approval.

Midnight,
31 May.

SEC. 2. All acts and resolutions inconsistent with the provisions of this act are hereby repealed.

Approved March 3, 1888.

CHAPTER XIX.

SUGAR.

AN ACT To Encourage the Production and Manufacture of Sugar in the Territory of Utah.

Exemptions.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That, to encourage the production and manufacture of sugar from products raised within the Territory of Utah, all water rights, factories, buildings, implements and machinery of every kind whatsoever actually and in good faith employed in the production and manufacture of sugar from such products in said Territory, and the stock of any company incorporated for the purpose of, and actually and in good faith engaged in, the production or manufacture of sugar in this Territory, and the bonds and mortgages given to secure loans on the aforesaid property, shall be exempt from taxation during the period of the next ensuing six years, or until the first day of January, A. D. 1894.

Approved March 3, 1888.

CHAPTER XX.

EVIDENCE, FOREIGN DOCUMENTS.

AN ACT Amending Section 1175 of "An Act Revising the Code of Civil Procedure of Utah Territory," Approved March 13th, 1884.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That subdivision 8, of Section 1175, of "An act revising the Code of Civil Procedure of Utah Territory, approved March 13, 1884," be amended to read as follows:

Section 8. Documents of any other class in a foreign country, by the original, or by a copy, certified by the legal keeper thereof, with a certificate under the seal of the country or sovereign or with a certificate of the Minister or Ambassador, or a Consul, Vice-Consul or Consular agent of the United States in such foreign country, that the document is a valid and subsisting document of such country, and that the copy is duly certified by the officer having the legal custody of the original.

SEC. 2. This act shall take effect from and after its passage and approval.

Approved March 3, 1888.

CHAPTER XXI.

CHANGING NAMES OF TOWNS, PRECINCTS AND SCHOOL DISTRICTS.

AN ACT Providing for the Changing of Names of Towns, Precincts and School Districts.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That whenever the residents of any town, precinct or school district desire to change the name of such town, precinct or school district, they may petition the county court of their county to order such change.

Name of town,
precinct or
school district,
how changed.

SEC. 2. When the county court of any county shall receive a petition signed by three-fourths of the legal voter, as shown by the registration list of the year next preceding, of any town, precinct or school district, asking that the name of such town, precinct or school district be changed to some other name designated in the petition and not the name of any city, town, precinct, school district or place in this Territory, the county court shall order such a change of

What petition
therefor to con-
tain.

name, and cause a notice thereof to be posted in three conspicuous places in each precinct in the county, and also publish said notice in a newspaper having a general circulation in the Territory.

Change not to
affect papers in
former name.

SEC. 3 Wherever the former name of a town, precinct or school district, the name of which having been changed as provided for in this Act, appears in any legal papers or documents, or in any law of this Territory, dated before such a change of name took place, it shall be deemed to mean the new name of the place.

Approved March 3, 1888.

CHAPTER XXII.

NORMAL STUDENTS.

AN ACT Providing for the Education of Normal Students.

Pupils to be
educated free
of charge in
University of
Deseret, how
selected.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That* the sum of ten thousand dollars is hereby appropriated annually to the University of Deseret, to be drawn by, and expended under the direction of the Chancellor and Board of Regents: *Provided*, that fifty pupils shall be selected annually, subject to the provisions of this section, to be instructed free of charge for two years in the Normal Department of said University. Said pupils shall be selected by the Commissioner of Schools, from persons nominated by the Board of Examination of the several counties, according to the district school population thereof, and his certificate shall entitle the holder to all the benefits of this provision: *Provided further*, that notification of such apportionment of pupils shall be given by the Commissioner of Schools to each Board of Examination, or to the Superintendent of District Schools of each county, on or before

the first day of July of each year. In case such nominations are not made and reported to said Commissioner by the Board of Examination of any county before the first day of September of each year, said county shall forfeit its privileges under this section. Each pupil so selected shall sign an obligation to the Commissioner of Schools, conditioned, that for such free tuition, he will serve a period as district teacher in this Territory, equal to that during which he received such free tuition: *Provided*, that in case he refuses so to teach, he will refund to said University a sum equal to the tuition fees regularly charged for any pupil in the Normal Department of the University, during the time of his attendance thereat.

Obligation of
Pupils.

SEC. 2. That Section 20, of "An Act providing for the establishment and support of District Schools and for other purposes approved February 20, 1880," is hereby repealed.

Approved March 3, 1888.

CHAPTER XXIII.

CRUELTY TO ANIMALS.

AN ACT To Prevent Cruelty to Animals.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That* whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills, or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, or cruelly killed, any animal, and whoever having the charge or custody of any animal, either as

Punishment
for.

owner or otherwise, inflicts unnecessary cruelty upon the same, or wilfully fails to provide the same with proper food, drink, shelter, or protection from the weather, shall, for every such offence, be punished by imprisonment in jail not exceeding three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment; *Provided*, That nothing in this section shall be construed to apply to animals running at large upon the range.

Misdemeanor.

SEC. 2. Any person who shall keep or use any bull, bear, dog, cock, or other animal or fowl, or bird for the purpose of fighting or baiting, or as a target, or to be shot at, either for amusement, or as a test of skill in marksmanship; and any person who shall be a party to, or be present as a spectator at any such fighting, baiting, or shooting of any bear, bull, dog, cock, or other animal, or fowl, or bird, and any person who shall rent any building, shed, room, yard, ground or premises for the purpose of fighting, baiting, or shooting any animal, or fowl, or bird, as aforesaid, or shall knowingly suffer or permit the use of any building, shed, room, yard, ground or premises belonging to him or under his control for either or any of the purposes aforesaid, shall, on conviction thereof, be adjudged guilty of a misdemeanor.

Misdemeanor.

SEC. 3. Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or who shall carry, or cause to be carried on or upon any vehicle, or otherwise, any live animal having the feet or legs tied together, or in any other cruel or inhuman manner, or shall abandon any maimed, sick, infirm, or disabled animal to die in any public place, or who shall carry or cause to be carried any live animal in or upon any vehicle, or otherwise, without providing suitable racks, cars, crates, or cages, in which such animals may stand or lie down during transportation, and whilst awaiting slaughter, such person shall, upon conviction thereof, be

adjudged guilty of a misdemeanor, and shall be punished for every such offence in the manner provided in Section 1 of this Act.

SEC. 4. Persons found violating any of the provisions of this Act may be arrested and held without warrant in like manner as in the case of persons found breaking the peace, and it shall be the duty of the person making the arrest, to seize all animals and fowls found in the keeping or custody of the person arrested, and which are then being used, or held for use, in violation of any of the provisions of this Act, and the person making such seizure shall cause such animals or fowls to be at once delivered to a poundmaster of the town, village or city in which the same may be, and it shall be the duty of such poundmaster to receive such animals or fowles, and to hold the same to be delivered to the owner or his agent upon the payment of all charges for the maintenance of said animals or fowls,

Offender to be arrested without warrant; animal or fowl to be delivered to poundmaster.

SEC. 5. When complaint is made, on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of this Act are being, or are about to be violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue and deliver a search warrant to any sheriff, constable or police officer, authorizing him to search such building or place, and to arrest any person or persons engaged in violating any of the provisions of this Act, as well as any person or persons there present, and aiding or abetting therein, and to bring such person or persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to said magistrate every article or instrument found in said building or place especially designed or adapted to torture or inflict wounds upon any animal; or to aid in the fighting or baiting of any animal; and unless within ten days after the trial of the person or persons so arrested, the

Search warrants, when issued; instruments of torture to be destroyed.

owner of such article or instrument shall show, to the satisfaction of said magistrate, that the same is not designed or adapted to the wounding or torture of animals; or, if so designed or adapted, is not intended to be used or employed for such purpose, the magistrate shall destroy such article or instrument.

Agents of society to prevent cruelty, &c., to be appointed deputy sheriffs when.

SEC. 6. Any society incorporated in this Territory for the purpose of preventing cruelty to animals may designate one or more persons in each county of the Territory to discover and prosecute all cases of the violation of the provisions of this Act; and it shall be the duty of the sheriff of such county to appoint each person so designated a deputy sheriff, provided, such person shall be of good moral character, and each person so appointed by the sheriff shall possess all the powers of a sheriff of the county in the enforcement of the provisions of this act. The sheriff, however, shall not be responsible for any acts of such person or persons, but the society, if incorporated, and if not, then the officers and members of the society, on the request of which such person was appointed, shall be liable in the degree of a principal for the acts of an agent.

Duty of sheriffs &c., to prosecute.

SEC. 7. It shall also be the duty of all sheriffs, deputy sheriffs, constables and policemen to arrest and prosecute all persons of whose violation of the provisions of this Act they may have knowledge or reasonable notice.

Prosecuting attorneys to represent people.

SEC. 8. It shall be the duty of all prosecuting attorneys to represent and prosecute in behalf of the people within their respective counties all cases of offences arising under the provisions of this Act.

Meaning of words employed in Act.

SEC. 9. In this Act the word "animal" or "animals" shall be held to include all brute creatures, and the words "owner," "person" and "whoever" shall be held to include corporations as well as individuals, and the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned, or employed by, or in custody of such corpora-

tions, shall be held to be the acts and knowledge of such corporations.

This Act shall take effect upon its passage and approval.

Approved March 5, 1888.

CHAPTER XXIV.

CIVIL CODE.

AN ACT Amending Section 552, Chapter IX, Title VIII, Code of Civil Procedure.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 552 of Chapter 9, Title 8 Code of Civil Procedure, be and the same is hereby amended by inserting after the word "judgment" and before the word "in" on seventh line of said Section, the following "or by him hereafter acquired during the existence of said lien" Lien of Judgment.

SEC. 2' This act shall take effect from and after its passage and approval.

Approved March 5, 1888.

CHAPTER XXV.

INHABITANTS OF CITIES AND TOWNS UPON PUBLIC LANDS.

AN ACT Amending an Act, Entitled "An Act Prescribing Rules and Regulations for the Execution of the Trust Arising under An Act of Congress, Entitled, "An Act for the Relief of the Inhabitants of Cities and Towns upon the Public Lands," Approved March 2d, 1867. Approved February 17th, 1869.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 10 of said Act be, and the same is hereby amended so as to read as follows:

Unclaimed
lands—dispo-
sition thereof.

SECTION 10. If there shall remain any unclaimed lands within such city or town, after the expiration of six months from the publication of the notice provided in Section three, the municipal authority in cases where the lands have been entered for a Municipal Corporation; and the probate judge, in cases where the lands have been entered in trust by him, shall cause the same to be surveyed and laid out into suitable and convenient blocks, lots and alleys, and shall reserve such portions as may be deemed necessary for public squares, parks, school houses, hospitals, asylums, fire-engines and hose houses, pest houses, Territorial or other public buildings or other necessary public use, and shall cause all necessary streets, roads, lanes and alleys to be laid out through the same, and a plot of the same, properly certified to, be filed for record in the office of the County Recorder of the proper county; and may sell at public auction to the highest bidder for cash, after public notice of the time and place of such sale published at least forty days in some newspaper published in the county, if there be such, otherwise, in a newspaper having general circulation in the county, such lots or blocks so laid out. If any of such lands remain unsold for want of a bidder at such auction, at the end of three months thereafter, the corporate authorities or probate judge as aforesaid, shall have the power to sell such residue of lands at public or private sale, on such terms as they may deem for the best interest of the city or town; and they shall execute deeds, as in this act provided, to the several purchasers for the lands so sold; but none of such lands shall be sold for less than five dollars per acre, either at private or public sale.

SEC 2. That Section eleven of said act be, and the same is hereby amended so as to read as follows:

Proceeds of
Sales.

SECTION 11. That all monies arising from the sales of lands, as provided in the next preceding section, after deducting the costs and charges of

such sales, shall be paid into the city treasury in cases where such lands have been entered in trust by corporate authority, or in the county treasury in cases where such lands have been entered in trust by the probate judge, and the same shall be set apart and applied to the improvement of public squares and streets, the construction of sewers, and procuring a supply of water for the use and benefit of the inhabitants of the city or town in which such lands are situated.

SEC. 3. This act shall take effect from and after its passage and approval.

Approved March 5, 1888.

CHAPTER XXVI.

CAPITOL BUILDINGS—SITE OF.

A RESOLUTION Accepting from Salt Lake City Lands for a Site for Capitol Buildings for the Territory of Utah.

WHEREAS, The City of Salt Lake has offered and tendered to the Territory of Utah certain lands in trust for certain specified uses, in words and figures following, to-wit:

The Honorable the Governor and Legislative Assembly of the Territory of Utah,

GENTLEMEN: I am directed by the select committee, consisting of Mayor F. Armstrong and Aldermen W. W. Riter, T. G. Webber, W. S. McCornick, James Sharp and George D. Pyper, of the City Council of Salt Lake City, to tender to the Territory of Utah, in behalf of said City, under the conditions and restrictions hereinafter named, the following described lands and premises, to be used and devoted to the erection of the Capitol Buildings of the Territory or future State of Utah, to-wit: Beginning at a point 252 feet South, and 779½ feet East from the South-

Communica-
tion from Salt
Lake City.

west corner of the Northwest quarter of Section 31, T. 1 N. of R. 1 E., Salt Lake Meridian, thence East 132 feet, thence North 18 degrees E., 500 feet, thence North 900 feet, thence West 1,000 feet; thence South 27 degrees 45 E. 1,550 feet, to the place of beginning, containing 19-46-100 acres, said tract being contained within the limits of the west half of said Section 31. Also an additional one-half interest in five acres of land, more or less, as may be necessary, suitably situated on Capitol Hill, for reservoir purposes, the location of said land to be hereafter determined by the Territory and City; the said conditions to be as follows, to-wit:

Conditions.

1st. Acceptance of lands designated and trust herein conferred, under the conditions named.

2nd. The payment of one dollar.

3rd. The erection upon said land of the Capitol Buildings of the Territory or future State:

4th. That such buildings be used exclusively for Territorial or State purposes.

5th. That the portions of the grounds not actually devoted to buildings as aforesaid be improved and cultivated as a public park.

6th. That whenever the purposes for which the proposed grant is made shall cease to be carried out and said grounds shall cease to be used for capitol grounds for Territorial or State purposes as therein provided, then the proposed trust shall cease and the grant become absolutely void and of no effect, and said lands shall revert to the grantor. On the acceptance of the trust hereby proposed under the conditions as aforesaid by the Governor and Legislative Assembly of the Territory of Utah, the Mayor of said City will be authorized to execute a proper deed of conveyance of said described premises to the Territory of Utah.

Very Respectfully,

HEBER M. WELLS,

City Recorder.

SALT LAKE CITY, UTAH, March 1, 1888.

AND, WHEREAS, It is to the public interest that the said offer be accepted, *Now, therefore, be it* ^{Acceptance.} *Resolved*, by the Governor and Legislative Assembly of the Territory of Utah, that the offer and tender of said lands by the City of Salt Lake to the Territory of Utah, as hereinbefore set forth, be, and the same is hereby accepted by the said Territory, subject to the conditions, limitations and restrictions in said offer specified and set forth.

Approved March 5, 1888.

CHAPTER XXVII.

LIQUOR—ELECTIONS.

AN ACT Preventing the Sale or Giving Away of Intoxicating Beverages on Election Days.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That it shall not be lawful for any person or persons ^{Misdemeanor.} keeping a public house, saloon or drinking place, either licensed or unlicensed, in any city or county of this Territory, to sell, give away, or furnish spirituous or malt liquors, wine or any other intoxicating beverages, on any part of any day set apart, or to be set apart, for any general or special election for Territorial, County, Municipal, District or Precinct officers, except School Trustees, by the citizens in any election district or precinct, in any of the counties or municipalities within this Territory.

SEC. 2. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor.

SEC. 3. This act shall take effect from and after its passage and approval.

Approved March 6, 1888.

CHAPTER XXVIII.

BOARD OF COMMISSIONERS—CAPITOL GROUNDS.

AN ACT Creating a Board of Commissioners on Capitol Grounds.

Names.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That the Governor of the Territory, and James Sharp and Thomas Marshall, of the County of Salt Lake, and Joseph Stanford, of Weber County, and Aaron F. Farr Jr. of Cache County, and Anthon H. Lund, of San Pete County, and A. O. Smoot Jr. of Utah County, are hereby appointed and constituted a "Board of Commissioners on Capitol Grounds."

Duty.

SEC. 2. It shall be the duty of the said Commissioners respectively, (excepting the Governor of the Territory) within twenty days after the passage and approval of this act, to take and subscribe an oath of office, to the effect that he will faithfully and to the best of his ability, discharge the duties of his office, and he shall execute a bond to the Territory of Utah, in the sum of twenty-five hundred dollars, conditioned that he will faithfully discharge all duties incumbent upon him to perform, in his said office as such commissioner, and said oath so subscribed and said bond shall be filed with the Secretary of the Territory; said bond with two or more sureties thereon, shall be first approved by the Auditor of Public Accounts.

Secretary.

SEC. 3. Immediately upon the qualification of said commissioners as aforesaid, they shall meet at the call of the Governor of the Territory, (who shall be ex-officio the Chairman of said Board) and elect some suitable person as Secretary of said Board; said Secretary shall keep minutes and records of all official acts of said Board, and accurate books of account of all monies paid out or expended by the said Board, and perform such

other duties as the Board may from time to time direct.

SEC. 4. It shall be the duty of said Board to take full possession and control of the grounds conveyed by the City of Salt Lake to the Territory of Utah, situate on the north bench of said city, and grade, fence, improve, ornament, beautify, lay off, and do all things which in the judgment of said Board may be fit and proper for the preparation of said grounds for the purposes contemplated by the trust created by the conveyance of said city and the acceptance thereof by said Territory. Possession and control.

SEC. 5. The said Board shall also, so soon as by it shall be deemed advisable, in conjunction with said City of Salt Lake, construct a suitable reservoir with all needed adjuncts thereto, at such point as may be agreed upon, for an adequate storage and supply of water for the said grounds, and for the buildings hereafter to be erected thereon. Reservoir.

SEC. 6. Said Board shall make tests of stone (native to Utah) and ascertain that which may be best adapted in all respects for Capitol buildings; obtain plans, estimates, specifications for said buildings, and procure all such information, that in its judgment should be procured, to enable the next Legislative Assembly to advisedly act in the premises, in the performance of the trusts provided for by said conveyance; *Provided*, that said Board shall not adopt any plan for said Capitol buildings, nor commence the foundations thereof. Tests of native stone.

SEC. 7. A majority of said Board shall constitute a quorum to do business, and said Board may adopt such rules and regulations for the conduct of its business as it may deem fit and proper; shall fix the salary of its Secretary and the compensation of such employees as it may require in the discharge of its duties. Quorum.

SEC. 8. The said Board shall present to the Legislative Assembly of this Territory, during the first week of its next session, a full, complete and Report.

detailed report of its proceedings under this act, together with all facts, figures, plans, specifications and information which said Board may have obtained touching said buildings, with such recommendations as to said Board may be deemed advisable.

Vacancies. SEC. 9. The said Board may fill all vacancies that shall occur in its body.

Compensation. SEC. 10. Said Commissioners shall each receive as his compensation for his services under this act, four dollars per day for each day actually employed, and ten cents per mile actually and necessarily traveled in the performance of the business of said Commission.

Appropriation. SEC. 11. For the purposes in this act set forth, the sum of twenty-five thousand dollars is hereby appropriated, or so much thereof as may be necessary, to be drawn by the warrants of the Auditor of Public Accounts, on the order of said Board of Commissioners.

SEC. 12. This act shall take effect from and after its passage and approval.

Approved March 6, 1888.

CHAPTER XXIX.

COUNTY BOUNDARIES.

AN ACT Amending (148) Section VI, and (150) Section VIII, of Chapter III, Title IV, of the Compiled Laws of the Territory of Utah, entitled "An Act Defining the Boundaries of Counties and Locating County Seats." Approved January 10th, 1866.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That (148) Section 6 of Chapter III, Title IV, of the Compiled Laws of the Territory of Utah, entitled "An Act Defining the Boundaries of Counties and Locating County Seats," approved January 10th, 1866, be, and is hereby amended to read as follows:

(148) Sec. 6. All that portion of territory bounded south of Beaver County, west by the State of Nevada, east and north by the summit of the mountains separating the Sevier from Pauvan and Round Valley, following said summit east of the Lake in Round Valley and running in a northerly direction to a point due east of the dugway, over the Sevier hill, about four miles south of the Sevier bridge; thence due west, crossing the summit of said dugway and then following the summit of the mountain and high ground between Round and Little Valleys to the summit of the mountains separating the Oak Creek district from Little Valley; thence northerly, following the summit of said last named mountain to its most prominent point of intersection with the Sevier River; thence down the channel of said river to the mouth of its lower cañon; thence due west to the State of Nevada, is hereby made and named Millard County, with the county seat at Fillmore.

Boundaries of
Millard County

Fillmore, the
county seat.

SEC. 2. That (150) Section 8 of said Act is hereby amended to read as follows:

(150) Sec. 8. All that portion of territory bounded south by Millard and San Pete counties, west by the State of Nevada, north by an east and west line to the divide between Cherry and Faust Creeks; thence along the summit of the range between Tintic and Rush Valleys, and the summit of the range between Tintic Valley and Cedar and Goshen valleys, and the summit of the range between Goshen and Juab valleys, and the summit of the high ground and range between Utah and Juab valleys, and east by the summit of the Nebo range of mountains, passing around the head of Salt Creek Cañon and crossing the San Pete road where it first rises upon the divide, at the head of the cañon from the west, thence following the summit of the range of mountains between Juab, Chicken Creek and San Pete Valleys, to a point due east from where the Gunnison road crosses the divide between Chicken Creek and Sevier Valley; thence on a straight

Boundaries of
Juab County.

Nephi, the
county seat.

line south-westerly to the upper Bluff Rocks at the south end of Cedar Ridge, thence southerly to the northern end of Cedar Ridge; thence southerly to the northern boundary line of Millard County, connecting with said line at a point due east of the dugway over the Sevier hill, is hereby made and named Juab County; with the county seat at Nephi.

Approved March 6, 1888.

CHAPTER XXX.

LEGISLATURE—MEMBERS.

AN ACT Fixing the Time for Electing the Members of the Legislative Assembly, Privileging Them From Arrest, and Fixing the Time for Commencing the Sessions of the Legislative Assembly.

Members of
Legislature,
where elected;
term of office.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That the members of the Legislative Assembly of this Territory shall be elected in their respective districts at the general election in August, in the year eighteen hundred and eighty-nine, and biennially thereafter, and their terms of office shall be two years.

Sessions, when
and where held

SEC. 2. The sessions of the Legislative Assembly shall be held at the City Hall in Salt Lake City, or at such other place in said city as the Legislative Assembly in joint session shall designate, and shall commence at two o'clock p. m. on the second Monday of January next after the election of the members thereof.

Privileged
from arrest,
except.

SEC. 3. The members of the Legislative Assembly shall be privileged from arrest and summons during the sessions thereof or during the time of their going to and returning from said sessions, except for felony; and no suit at law against any member shall be prosecuted during said sessions.

SEC. 4. Nothing in this act shall be construed to change or effect the terms of office of the members of the present Legislative Assembly.

SEC. 5. Sections eight, nine, ten, twelve and thirteen of the Compiled Laws, and Chapter XXII of the Laws of 1880, and all laws in conflict herewith, are hereby repealed. This act shall take effect upon its approval.

Approved March 6, 1888.

CHAPTER XXXI.

PAYMENT OF JURORS.

A RESOLUTION Providing for the Payment of Jurors in Civil Cases for the Years 1882 and 1883.

WHEREAS, By an act of the Governor and Legislative Assembly of the Territory of Utah, entitled "An Act Providing for the Payment of Jurors," Approved March 9th, 1882, provision was made for the payment of Jurors in civil and criminal cases for the years 1882 and 1883, and

WHEREAS, By an act entitled "An Act Making Appropriations for General Purposes," approved March 13th, 1884, Section eight of said act makes appropriation to pay deficiency of witnesses in criminal cases and jurors in criminal cases for 1882 and 1883, as reported by the Auditor of Public Accounts, and

WHEREAS, Said report of said Auditor included deficiency of jurors' fees in civil cases for the years 1882 and 1883, and

WHEREAS, Said section eight of said act of March 13th, 1874, does not authorize the said Auditor to pay certificates for services in civil cases, and

WHEREAS, The said Auditor has reported to this Legislative Assembly, that said jury certificates in civil cases have not been paid, and that the means to pay the same was appropriated by

said act of March 13th, 1884, and is still on hand, therefore

Be it Resolved by the Governor and Legislative Assembly of the Territory of Utah: That the Auditor of Public Accounts be and is hereby authorized and instructed to pay the certificates issued to jurors in civil cases for the years 1882 and 1883, not heretofore paid by him.

Approved March 7th, 1888.

CHAPTER XXXII.

SALE OF INTOXICATING LIQUORS.

AN ACT Amending Chapter XXVIII, Laws of the Territory of Utah, 1886, entitled "An Act Licensing and Regulating the Manufacture and Sale of Intoxicating Liquors."

Punishment.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 6, Chapter XXVIII, of "An Act Licensing and Regulating the Manufacture and Sale of Intoxicating Liquors," approved March 11th, 1886, be and the same is hereby amended, by adding to said Act the following: "And shall be punished by a fine in any sum less than three hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, at the discretion of the court."

SEC. 2. That Section 6, Chapter XXVIII, of an Act Licensing and Regulating the Manufacture and Sale of Intoxicating Liquors, approved March 9th, 1882, be and the same is hereby repealed.

Approved March 7th, 1888.

CHAPTER XXXIII.

EQUALIZATION OF TAXES.

AN ACT Providing for the Equalization of Territorial and Territorial School Taxes.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That* Board, duration.
a Territorial Board of Equalization of Assessment of Territorial and Territorial School Taxes is hereby created for the years 1888 and 1889.

SEC. 2. Said Board of Equalization shall consist of seven persons, all of whom shall be elected by the joint vote of the present Legislative Assembly; *Provided*, that not more than one member shall be elected from any county except Salt Lake county, which shall be entitled to two members. Each member of said Board shall take and subscribe the oath of office, which shall be filed with the Auditor of Public Accounts. Number and qualification.

SEC. 3. Said Board of Equalization shall meet at the office of the Territorial Auditor of Public Accounts, in Salt Lake City, at 12 o'clock noon, on the third Monday in June of each year, and a majority of said Board shall constitute a quorum to do business. At the first meeting of said Board a chairman and a secretary shall be appointed from their number. When and where shall meet. Quorum, chairman, secretary.

SEC. 4. The county clerk of each county in this Territory shall, on or before the third Monday in June of each year, prepare and forward to the Auditor of Public Accounts, for the use of the Board of Equalization, a copy of sufficient number of pages from the county assessment roll of his county to show at least two pages of the assessment of property in each precinct of his county. County clerk's duty.

Said Board of Equalization is authorized to call upon the county clerk of any county for a copy of any further portion of the assessment roll of such county whenever they may deem it necessary, and the county clerk so requested, Power of Board

shall immediately prepare a copy of the pages of said assessment roll designated by said Board, to which shall be attached his certificate of the correctness of said copy, and transmit the same to said Board.

Said Board, in the performance of its duty, may visit any part of the Territory; and shall also have power to administer oaths by its chairman or secretary, to summon to its aid the assessor of any county, or any other person, and examine him or them under oath, and also examine said copies of the assessment roll in order to ascertain the actual and the assessed values of taxable property, both real and personal, comparing one county with another.

Power of Board
County court. SEC. 5. Said Board shall make such changes in the assessed valuation of the different classes of property, in any county, by increasing or decreasing the same such per cent, as may be necessary to equalize the assessment of such county with the assessment of other counties; *Provided*, That the county court of any county in which it is proposed to increase the assessed valuation, shall have not less than ten days notice to appear by representative and resist such increase.

Final. SEC. 6. The action of said Board of Equalization on the assessed valuation of the property in any county of this Territory for the said years 1888 and 1889 shall be final.

Report of
Board. The said Board shall finish its labors and file a full and complete report of all the changes made by it with the Auditor of Public Accounts on or before the first day of August of each year, and immediately thereafter the secretary thereof shall give notice to the County Court of each county of the action of said Board affecting such county.

County clerk's
duty. SEC. 7. On receipt of said notice of the action of the Board of Equalization, each County Court shall cause said notice to be entered upon

its records, and if changes have been made by said Board, the county clerk shall thereupon enter such changes upon the assessment roll by adding to our taking from the assessed valuation of the different classes of property in the county such per cent. as said notice shall designate, and give notice, by publication in some newspaper having general circulation in the county, and by causing a notice of such change to be posted in at least three public places in each precinct of said county.

SEC. 8. The said Board of Equalization shall furnish to the Legislative Assembly of the Territory within the first two weeks of its session, a report of its official proceedings under this Act, with such recommendations as it may deem proper. Report and
Recommendations.

SEC. 9. Each member of said Board shall receive for his services while actually engaged in the work of equalization five dollars per day and ten cents per mile, one way only, and each person summoned as witness or aid shall receive three dollars per day, and the same mileage allowed to members of the Board. Compensation.

SEC. 10. The Territorial Auditor of Public Accounts shall audit the accounts of said Board of Equalization for per diem and mileage and draw his warrants for the amount due, which shall be paid out of the Territorial Treasury, and the sum of \$5,000.00 or so much thereof as may be necessary, is hereby appropriated for the payment of such per diem and mileage. Appropriation.

Approved March 7th, 1888.

CHAPTER XXXIV.

LIFE INSURANCE.

AN ACT Relating to Life Insurance Companies.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That it shall be unlawful to transact the business of How organized.

life insurance in this Territory except under the provisions of this act.

Capital.

SEC. 2. It shall be lawful for any number of persons, not less than five, to associate themselves together for the establishment of a life insurance company in this Territory, and they shall be deemed a body corporate authorized under the laws of the Territory to transact life insurance business, on complying with the provisions of Chapter I of Chapter XLV, of the laws of this Territory, relating to private corporations, approved March 13, 1884; *Provided*, that it shall not be lawful for any such company, except fraternal associations organized upon the assessment plan, to transact a life insurance business in this Territory, unless it shall have a paid up capital of not less than one hundred thousand dollars, and shall have complied with the provisions of this act, unless herein otherwise provided.

Mutual companies, how organized.

SEC. 3. It shall be lawful for any number of persons, not less than fifty, at least two-thirds of whom shall be residents of this Territory, to associate themselves together for the establishment of a mutual life insurance company in this Territory; and they shall be deemed a body corporate authorized under the laws of the Territory to transact a mutual life insurance business, on complying with the provisions of this act, and of Chapter I of Chapter XLV of the laws of this Territory, relating to private corporations, approved March 13, 1884, as far as the provisions of this Act and of said Chapter are, or may be applicable; *Provided* that at least fifty persons, two-thirds of whom shall be residents of this Territory, shall first have paid to the proper official of said company, twenty-five per cent (25 per cent) of the annual premiums on one-quarter of a million dollars of life insurance policies in the proposed company, together with their respective notes for the remaining seventy-five per cent (75 per cent) of said annual premiums, which said sums shall amount to not less than ten thousand dollars, the fact of which payments

must appear to the Territorial Auditor, who, upon satisfactory evidence that the provisions of this section relating to said payments have been complied with, shall issue a certificate of approval, which shall be filed with the Secretary of the Territory.

SEC. 4. It shall be lawful for any life insurance company, incorporated under the laws of this Territory, to invest its capital and funds accumulated in the course of its business, or any part thereof, in bonds of the United States, or this Territory, in real estate within the Territory; in first mortgages on real estate within the Territory; in bonds of any school district or incorporated city of the Territory, authorized by the Legislature to be issued, in stocks or bonds of any solvent dividend paying institutions, other than mining corporations, incorporated under the laws of the Territory; to change and re-invest the same as occasion may, from time to time, require; and to lend the same, or any part thereof on the security of such above named property; *Provided, always*, that the current market value of such property shall be, at the time of the investment, at least fifty per cent more than the sum loaned thereon.

Funds, how
invested.

SEC. 5. It shall be the duty of the Auditor of Public Accounts to examine the securities and investments of every life insurance company organized under the laws of this Territory, and if he finds the provisions of this act complied with, he shall approve the same and must thereupon issue to each company so incorporating, a certificate approving its securities, which certificate shall be filed with the secretary of the Territory. No life insurance company shall have authority to commence business until its securities shall have been approved by the Auditor and the certificate of approval is filed in the Secretary's office. The Auditor shall be entitled to receive and collect from each company for each day or fraction thereof occupied in examining said securities, the sum of ten dollars; *Provided*, that this sec-

Auditor's
duties.

tion shall not apply to any mutual life insurance company organized under the provisions of Section Three of this Act.

What unlawful SEC. 6. It shall be unlawful for any agent of any life insurance company to transact the business of life insurance within this Territory, unless the insurance company shall have first obtained a certificate of authority from the Secretary of the Territory, which certificate shall be issued to said agent upon his filing with said Secretary, a statement, sworn to by an officer or manager of said company, showing:

First, The name and locality of the company;

Second, The amount of capital stock;

Third, The capital paid up;

Fourth, The amount of its assets and liabilities;

Fifth, Net surplus over all liabilities;

Sixth, The name of its attorney, or agent for the Territory, upon whom service of process in any civil action against said company may be made;

Seventh, Receipts and expenditures during the year. And upon filing with said Secretary a duly authenticated abstract of the laws of the State, Territory, or foreign government under which said company was organized, *Provided*, that mutual and fraternal associations or companies organized without capital stock, upon the assessment plan solely, shall not be subject to the provisions of the requirements in subdivisions Second, Third, Fourth, and Fifth of this Section.

Renewal of
annual state-
ment.

SEC. 7. The statement referred to in Section Six shall be renewed annually, in the month of June of each year, and shall be published by each company, on or before the 30th day of June of each year, at least four times in some newspaper published in this Territory and having general circulation therein.

Fees.

SEC. 8. The Secretary of the Territory shall be entitled to the following fees herein: For filing statements mentioned in Section Six, five dollars; for issuing certificate of authority, two dollars; for issuing each subsequent certificate of author-

ity to other agents of the same company, one dollar.

SEC. 9. Any person violating any of the provisions of this act shall be guilty of a misdemeanor. Misdemeanor.

Approved March 7, 1888.

CHAPTER XXXV.

INSANE ASYLUM.

AN ACT Amending an Act Entitled "An Act to Establish a Territorial Insane Asylum" Approved February 20, 1880, and all Acts Supplementary thereto.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That* Chapter Thirty-one, Laws of 1880, entitled "An Act to Establish a Territorial Insane Asylum," Approved February 20, 1880, and all laws supplementary thereto, are hereby amended by repealing all after Section Eight of said Act, and all said supplementary Acts, and substituting the following therefor, to be numbered as follows: Repeal.

SEC. 9. The Board of Directors shall be known by the name and style of the Board of Directors for the Insane Asylum, and by that name they and their successors shall be known in law, may sue and be sued, in any of the courts of this Territory, and may receive, take and hold property both real and personal in trust for the Territory, and for the use and benefit of said Asylum. They shall have power to govern, manage and administer the affairs of said asylum, and make and adopt by-laws for their own government and the government of said asylum, not repugnant to the laws of the United States or of this Territory. They shall cause to be kept by the Secretary a full and correct record of their proceedings, which shall be open at all times to the inspection of any citizen desiring to examine the same. They Board and its powers.

Report.

shall hold stated meetings at the asylum quarterly at such time as may be prescribed by the by-laws, and a majority of the Board shall constitute a quorum for the transaction of business; they shall make thorough inquiry into all the departments of labor and expense, and a careful examination of the buildings, property and general condition of the asylum; they shall submit to the Legislative Assembly during the first ten days of its session in the year 1890, and biennially thereafter a report showing the receipts and expenditures, and the general condition of the asylum, the number of patients under treatment during the two preceeding years, and such other matters touching the general affairs of the asylum, as they may deem advisable, The Board of Directors shall elect a Medical Superintendent whose term of office shall be four years, and until his successor is elected and qualified, and thenceforth the Directors shall elect the Medical Superintendent when it becomes necessary by the expiration of his term of office, or by the occurrence of a vacancy in said office.

Medical superintendent.

Supplies.

SEC. 10. Upon receipt of the bids advertised for furnishing provisions, fuel and clothing, the Board of Directors shall examine the same and award the contracts to the lowest responsible bidders, upon their giving to the Board of Directors satisfactory security for the faithful fulfillment of the same.

Number patients, &c.

SEC. 11. At the regular meeting of April and October of each year the Board of Directors shall certify to the Auditor of Public Accounts, the number of indigent patients, also the number of patients who pay a part, and the amount paid by each; also the number of officers and other employees of the institution, and the salary paid to each.

Sales.

SEC. 12. The Board of Directors may order the sale of any stock or produce of the farm or garden, or any perishable property, when in their judgment it is necessary for the interests of the asylum so to do.

SEC. 13. All moneys belonging to the Territory, coming into the hands of the Directors, other than that appropriated to the asylum, shall be kept by them in a separate fund, known as the contingent fund, and the same shall be expended by the Board of Directors, at such times and in such manner as the said Board believes to be for the best interests of the asylum, for the improvement thereof, a full, strict and itemized account of all such receipts and expenditures shall be included in their biennial report to the Legislature.

SEC. 14. Upon the receipt from the Medical Superintendent of the estimate for the probable expense of the asylum, as provided in Section 25, the Board of Directors shall make an examination thereof, and if found correct shall approve the same and shall certify such action to the Auditor of Public Accounts, who shall fill the same and if there be funds in the Territorial Treasury, which have previously been appropriated by the Legislative Assembly for the maintenance of such asylum, shall draw his warrants for the amount of said estimate, payable to the Territorial Insane Asylum, and the Territorial Treasurer is authorized and directed to pay the same as provided by law.

SEC. 15. Each Director shall receive as his compensation four dollars per diem for each meeting of the Board at which he shall be present, payable out of any moneys in the treasury of the asylum not otherwise appropriated. *Provided*, that any Director whose residence is out of the county in which the asylum is situated, shall be allowed for traveling expenses mileage at the rate of ten cents per mile for one way only for the distance necessarily traveled in attending the meetings of the Board.

SEC. 16. The Board of Directors shall elect a Treasurer, who shall not be of their number, and who shall hold his office for two years and until his successor is elected and qualified. Before entering upon his duties the Treasurer shall qual-

ify by taking the usual oath of office, and shall give bonds with good and sufficient sureties in a sum not less than ten thousand dollars, payable to the Territory of Utah, to be approved by the Auditor of Public Accounts, conditioned for the faithful performance of his duties according to law, and for the delivery to his successor of all books, papers, vouchers, moneys and effects held by him by virtue of his office. The Board of Directors may increase the amount of the bond of the Treasurer, and may require additional surety at any time; and they may remove him for good and sufficient cause. The Treasurer shall render to the Board of Directors quarterly, at such time as may be prescribed by the by-laws, a detailed statement of the moneys received and disbursed by him during the preceding quarter. He shall, by order of the Board of Directors, receive from the Territory all moneys appropriated to the use of the asylum, and receipt therefor. He shall receive, collect and disburse all moneys due and belonging to the asylum. Also in the name of the asylum he shall bring suit for the recovery or breach of any contract, bond or other obligation made in favor of said asylum; and no money shall be paid out by the Treasurer except upon the order of the Board of Directors, which order shall be spread upon the minutes. He shall certify to the Auditor of Public Accounts on the first day of January, April, July and October of each year, the amount (not previously certified to by him) due to said asylum, and shall perform such other duties as the Board of Directors may require. He shall have a yearly salary, to be fixed by the Board of Directors, payable quarterly, out of any money in the Treasury of the asylum not otherwise appropriated.

Salary.

SEC. 17. The Board of Directors shall elect a Secretary, who shall not be of their number, and who shall have charge of the books and accounts of the Board of Directors; he shall keep a record of their proceedings at all stated and called meetings, and shall perform such other duties as

Secretary's
duties.

the by-laws may prescribe or the Board of Directors may require; he shall have such salary or compensation for his services, payable quarterly, as may be fixed by the Board of Directors. Salary.

SEC. 18. The Board of Directors shall have the supervision and control of all insane persons committed to its charge, whether confined in the Territorial Asylum or other house or place. Control of insane.

SEC. 19. The Board of Directors shall provide for furnishing Probate Judges of the several counties entitled to send patients to the asylum, with such blanks, warrants, certificates, etc., as will enable them with regularity and facility to comply with the provisions of this chapter. Blanks, &c.

SEC. 20. Whenever any patient committed to the asylum is refused admission therein for want of room, the Board of Directors shall certify such fact to the parties liable for the costs of his care and keeping. Want of room.

SEC. 21. The Directors may remove any officer or employee of the asylum by a vote of five-sevenths of their number, for habitual and willful neglect of duty, or for refusal to comply with the requirement of the laws, by-laws or regulations made for the establishment and government of the institution. Removal of officers, &c.

SEC. 22. The Board of Directors may order the removal of any patient who is harmless or incurable, to the county from whence he came, after due notice thereof given to the Probate Judge of such county. Removal of patient.

SEC. 23. Non-residents of this Territory, conveyed or coming here while insane, may, upon the written recommendation of the County Court of the county in which such insane person is found, be returned by the Directors to the home or friends of any such person, if known, but must not be committed to or supported in the Territorial Insane Asylum; but this prohibition shall not prevent the commitment to and temporary care in said Insane Asylum of persons stricken with insanity while traveling through or temporarily sojourning in the Territory. Non-resident insane.

Medical superintendent's powers.

SEC. 24. The Medical Superintendent shall be a well educated and experienced physician, and a graduate in medicine, and shall have practiced at least five years from the date of his diploma; he shall be the chief executive officer of the asylum; he shall have the general superintendence of the buildings, grounds and property thereof, subject to the laws and regulations of the Directors; he shall have control of the patients, prescribe and direct their treatment, adopt sanitary measures for their welfare, and discharge such as in his opinion have recovered their reason; he shall appoint, with the approval of the Directors, as many attendants as he may deem necessary for the efficient and economical care and management of the asylum, and with the consent of the Board of Directors, fix their compensation and discharge any of them; he shall prescribe the duties of the subordinate officers and employees, maintain discipline among them and enforce obedience to the laws, rules and regulations adopted for the government of the institution; he shall estimate quarterly in advance the probable expense of the asylum, and submit the same to the Board of Directors for their approval.

Medical superintendent's action with reference to supplies.

SEC. 25. The Medical Superintendent shall estimate and report to the Directors the amount, kind and quality of provisions, fuel and clothing required for the six months ending on the last day of April and October of each year, and when approved by the Directors, the Medical Superintendent shall immediately advertise for contracts for furnishing said supplies for three successive weeks, in some newspaper published in the Territory and having general circulation therein. Necessary expenditures other than those for provisions, fuel and clothing may be made by the Medical Superintendent, subject to the approval of the Board of Directors. The Medical Superintendent shall cause to be kept full and correct accounts and records of his official transactions from day to day in books provided for that

purpose, in the mode prescribed in the by-laws, and he shall report to the Board of Directors quarterly, including vouchers for expenditures during said quarter; he shall see that his accounts are made up to the thirtieth day of November of each year, and shall submit his annual report to the Board of Directors immediately; he shall visit the asylum every day in the year unless he obtain leave of absence from the President of the Board of Directors, in which event the assistant physician shall discharge his duties; he shall receive an annual salary to be fixed by the Board of Directors, payable monthly, as other attaches are paid.

Salary of
superintendent

SEC. 26. Whenever the Board of Directors shall deem it necessary they may, upon the nomination of the Medical Superintendent, elect an assistant physician, who shall be a graduate in medicine; his salary shall be fixed by the Board of Directors, to be paid in the same manner as other employees; he shall, in the absence of the Medical Superintendent, make daily visits to the asylum, and when requested, shall make such visits in company with the Medical Superintendent; he shall perform such other duties as may be directed by the Medical Superintendent and prescribed by the by-laws; his term of office shall be four years and until his successor is elected; the duties of Medical Superintendent, in his absence or sickness, shall be performed by the assistant physician.

Assistant phy-
sician, his
duties, &c.

SEC. 27. The judges of the probate courts shall have cognizance of all applications for admission to the asylum or for the safe keeping otherwise of insane persons within their respective counties, except in cases otherwise provided for. For the purpose of discharging the duties required of them, they shall have power to issue subpoenas and compel obedience thereto, to administer oaths and do any act of a court necessary and proper in the premises.

Probate judges,
their powers
and duties.

SEC. 28. Applications for admission to the asylum must be made in the form of an informa-

Application for
admission.

tion, verified by affidavit, alleging that the person in whose behalf the application is made, is believed by the informant to be insane and a fit subject for custody and treatment in the asylum, that such a person is found in the county and has a residence therein, if such is known to be the fact, and if such residence is not in the county, where it is, if known, or where it is believed to be, if the informant is advised on the subject.

Jurisdiction on
information.

SEC. 29. On the filing of such information the Probate Judge of the county in which such person resides, if a resident of the Territory; and if a non-resident, then the Probate Judge of the county in which such person is found, may examine the informant under oath, and if satisfied there is reasonable cause thereof, shall at once investigate the grounds thereof. For this purpose he may require that the person for whom such admission is sought be brought before him, and the Judge may issue his warrant therefor to the sheriff or any constable of the county, which shall be in form as follows:

TERRITORY OF UTAH, }
COUNTY OF _____ } ss.

To _____, Greeting:

Warrant.

You are hereby commanded to forthwith arrest _____, alleged to be an insane person, and bring him before me, and make due returns thereof.

Witness my hand and seal of the Probate Court of _____ County, this _____ day of _____ A. D. _____

_____,
Probate Judge.

Examination.

He may provide for the suitable custody of such person until the investigation shall be concluded. If he shall be of the opinion from such preliminary inquiries that he may make, that the presence of the accused would probably be injurious to such person, or attended with no advantage, he may dispense with such presence. In

the examination he shall hear testimony for and against such application. Any citizen of the county, or any relative of the person alleged to be insane may appear and resist the application, and the parties may appear by counsel if they so elect. The Probate Judge shall cause to appear before him two practicing physicians in medicine, before whom the Judge shall examine the charge, and if, after a careful hearing of the case, and after a personal examination of the alleged insane person, the said physician shall certify on oath that the person examined is insane, and the case is of a recent or curable character, or that the said insane person is of a homicidal, suicidal or incendiary disposition, or that from any other violent symptoms the said insane person would be dangerous to his or her own life or to the lives or property of the community in which he or she may live; and in connection with their examination the said physicians shall endeavor to obtain from the relatives or others who know the facts, correct answers so far as may be to the interrogations hereinafter required to be propounded in such cases, which interrogatives shall be attached to their certificates. The physicians' certificate herein provided for shall be in form as follows:

PHYSICIANS' CERTIFICATE.

TERRITORY OF UTAH, }
COUNTY OF _____ } ss.

_____ and _____ being duly sworn, both certify, each for himself, that he is a practicing physician in medicine; that at the request and in the presence of Hon. _____, Judge of _____ he has heard the testimony and personally examined the said _____ in reference to the charge of insanity, and doth find that _____ is insane and so far disordered in his mind as to endanger health, person or property, and that said insanity is not a case of idiocy, imbecility or simple feebleness of mind; the further facts ap-

Certificate of physician.

pertaining to said case, as nearly as can be ascertained, are set forth in the answer to the following questions:

1. Name.
2. Age.
3. Nativity.
4. Married or single.
5. If children, how many, their names, ages and residences.
6. If female and married, maiden name and name of husband.
7. What State last from, and how long in Utah.
8. What occupation.
9. What evidence have you of the presence of insanity.
10. Is there a homicidal, suicidal or incendiary disposition.
11. Is the case a recent one, having occurred within twelve months last past.
12. When did this attack first appear.
13. Is this the first attack, if not when did others occur and what their duration.
14. Is the disease increasing or stationary.
15. Are there rational intervals, if so, do they occur periodically.
16. Is there any permanent hallucination, if so, what is it.
17. In what way is the accused dangerous to be at large.
18. Is there a disposition to injure others, if so, is it directed especially to relatives. Is it it from sudden passion or premeditated.
19. If suicidal, is the propensity now active and in what way.
20. Is there a disposition to filthy habits, destruction of clothing, furniture, etc.
21. Have any relatives, including grandparents and cousins, been insane.
22. Any peculiarity of habits, temper, disposition, etc., or pursuits before the attack, any predominant passions or religious impressions.

23. Been intemperate in the use of ardent spirits, wine, opium or tobacco in any form.

24. Suffering from epilepsy, suppressed secretions, eruptions, discharges or sores, or injured in the head.

25. Any change in the physical health since the attack.

26. The supposed cause of insanity.

27. Of what class of insanity.

28. What treatment has been pursued, and with what effect.

29. Postoffice address, street and number of house or relative or friend.

....., M. D.

....., M. D.

Subscribed and sworn to before me this....

.... day of, A. D.....

....., Probate Judge.

SEC. 30. On the return of the physician's certificate the Probate Judge shall, as soon as practicable, conclude his investigations, and shall find whether the person alleged to be insane is insane, whether, if insane, a fit subject for treatment and custody in the asylum, whether the residence of such person is in such county, and if not in such county, where it is; if ascertained. If he find such person is not insane, he shall order his immediate discharge, if in custody. If he find such person insane, and a fit subject for custody and treatment in the asylum, he shall order such person to be committed to the asylum, except as in Section 23 of this Act provided, and unless said person so found to be insane (or some one in his or her behalf) shall appeal from the finding of said judge to the District Court of the judicial district in which such judge resides, the judge shall forthwith issue his warrant, with duplicate thereof, stating such findings, with the residence of the person, if found, which warrant shall be in the following form, viz.:

Return of physician certificate.

Hearing,

Warrant of Commitment.

TERRITORY OF UTAH, }
 COUNTY OF } ss.

Warrant.

I Probate Judge of the County of Territory of Utah, upon affidavit of caused to be brought before me for examination on a charge of insanity, and having heard the testimony of and witnesses who have been acquainted with the accused during the alleged insanity, and Drs. and practicing physicians, after hearing the testimony of witnesses and after a personal examination of the accused and having made the certificate by law required, find that the said, is insane and is a fit subject for custody and treatment in the asylum, that the residence of is in County, Territory of Utah, and is indigent and is able to bear the actual charges and expenses for the time may remain in the asylum, I therefore order the said a male, aged, years, to be confined in the Territorial Insane Asylum at Provo City, and is charged with the execution of this order.

Witness my hand this day of A. D.
 Judge of Probate Court.

Money of
insane.

SEC. 31. The Probate Judge shall transmit to the Medical Superintendent all money or other property found on the person of any insane person at the time of the arrest, and certify thereto in form as follows:

TERRITORY OF UTAH, }
 COUNTY OF } ss.

I,, Probate Judge of County, certify that the sum of dollars and property was found on the person of said at the time of his arrest, which the said is ordered to deliver to the Medical Superintendent of the Territorial Insane Asylum; that I have appointed a guardian for said and directed a quarterly payment in advance, together with a fund to be forwarded

to the said asylum with the said as by law required of paying patients.

Witness my hand this day of A. D.
, Probate Judge.

The Medical Superintendent shall, upon receipt of such money or other property as herein provided, deliver the same to the Treasurer to be applied to the payment of the expenses of said patient while in the asylum, but upon recovery of such insane person, all sums remaining unexpended, or other property, shall be returned to him when he is discharged from the asylum.

SEC. 32. The Probate Judge shall deliver to the sheriff of the county, or other person appointed to execute the warrant, certified copies of the affidavit, warrant of commitment, and certificate of property found on the person, and appointment of guardian, and the sheriff or other person appointed shall execute the aforesaid warrant by conveying such person to the asylum, and delivering him with such affidavit, commitment and certificates to the Medical Superintendent thereof. The Medical Superintendent shall acknowledge such delivery on the original warrant which the Sheriff shall return to the clerk of the Probate Court with his costs and expenses endorsed thereon. The Sheriff shall be allowed for his personal service in conveying a patient to the asylum and returning therefrom at the rate of three dollars per day for the necessary time actually employed, and mileage at the rate of seven cents per mile for the distance actually and necessarily traveled. In the absence of the Sheriff or his deputy, or their inability to act, the Probate Judge may appoint some suitable person to execute the warrant, who shall take and subscribe an oath to discharge the duties thereof; he shall be entitled to the same fees as the Sheriff, or other person so appointed, may, by consent of the Probate Judge, take to his aid such assistance as he may need to execute said warrant; *Provided* that no female shall be thus taken to the asylum, without the attendance

Execution of
warrant, etc.

Fees.

of some other female or some relative. The Medical Superintendent shall, in his acknowledgment of delivery, state whether there was such person in attendance, and give the name and names, if any; but if any relative or immediate friend of the patient, who is a suitable person, shall so request, he shall have the privilege of executing such warrant in preference to the Sheriff or any other person taking such oath, and for so doing he shall be entitled to his necessary expenses, but no fees.

Pay patients.

SEC. 33. In case an insane person committed to the asylum under the provisions of this Act, shall be possessed of real or personal property sufficient to pay such charges and expenses, the judge shall appoint a guardian for such person who shall be subject to all the provisions of the general laws of this Territory in relation to guardians as far as the same are applicable, and when there is not sufficient money in the hands of the guardian, the judge may order a sale of the property of such insane person, or so much thereof as may be necessary, and from the proceeds of such sale the guardian shall pay to the Board of Directors the sum fixed upon by them, quarterly in advance, for the care and keeping of such ward, and he shall, out of the proceeds of such sale or such other funds as he may have belonging to his ward, pay for such clothing as the medical superintendent shall from time to time furnish such patient; *Provided* that if such insane person have a family in this Territory no such order of sale be had of any property exempt from execution and forced sale.

Bond of guardian

SEC. 34. The guardian shall give a bond with good and sufficient surities, payable to the treasurer of the asylum and approved by the Probate Judge, for the faithful performance of the duties required of him by this Act. So long as the property of his insane ward is sufficient for the purpose. The form of such bond shall be as follows: (Printed form.)

BOND.

Know all men by these presents:

That, whereas,.....of.....in the County of.....an insane person, has been admitted as a patient in the Territorial Insane Asylum for Utah Territory, situated at Provo City, in said Territory, in consideration of the following agreement:

Now, therefor, we, the undersigned, in consideration thereof, jointly and severally, bind ourselves to.....treasurer of said asylum, to pay to him and his successors in office, the sum of.....dollars and.....cents per week for ^{Bond.} the care and board of said insane person, so long as.....shall continue in said asylum, and his property is sufficient for that purpose, with such extra charges as may be occasioned by requiring more than ordinary care and attention, and to provide with suitable clothing, and also to pay all expenses incurred by sending said patient tofriends, in case one or either of us shall fail to remove said patient when required to do so as aforesaid, and if.....shall be removed at the request of friends before the expiration of three calendar months after reception, then to pay board for the thirteen weeks, unless.....shall be sooner cured, and also to pay, not exceeding fifty dollars, for all damages.....may do to the furniture or other property of the asylum, and for reasonable funeral expenses in case of death. Such payments for board and clothing to be made quarterly, on the first days of.....in each year, and at the time of removal, with interest on each bill from and after the time it becomes due.

In witness whereof, we have hereunto set our names, this.....day of.....in the year.....

Name.....
P. O.....
Name.....
P. O.....

TERRITORY OF UTAH, }
 COUNTY OF..... } ss.

Verification.

.....being duly sworn,
 deposes and says that he is a resident in this Ter-
 ritory, is a free holder therein and is worth the
 sum of one thousand dollars, over and above all
 his debts and liabilities, exclusive of property
 exempt from execution.

Subscribed and sworn to before me this....
day of.....

.....[SEAL.]
 TERRITORY OF UTAH, }
 COUNTY OF..... } ss.

.....being duly
 sworn, deposes and says that he is worth the sum
 of one thousand dollars, over and above his debts
 and liabilities, exclusive of property exempt from
 execution.

Subscribed and sworn to before me this....
day of.....

.....[SEAL.]
 This will certify that I am personally ac-
 quainted with.....and.....
the signers of the above bond, and con-
 sider each of them fully responsible for the
 prompt discharge of its obligations.

Certificate.

Name.....
 Office.....
 P. O.....

Territory when
 liable.

Provided that when the property in the hands
 of the guardian subject to sale shall be exhausted
 the Probate Judge shall give notice thereof to
 the Board of Directors and thereafter the Terri-
 tory shall be liable for the cost of care and keep-
 ing of the indigent insane.

Duty of Judge
 on commit-
 ment.

Sec. 35. Upon the commitment of any per-
 son to the Territorial insane asylum the Probate
 Judge who committed such person shall immedi-
 ately transmit a copy of the affidavit, physicians'
 certificate and warrant of commitment, to the
 parties liable for the cost of commitment and care
 and keeping of such insane person in the asylum.
 If at any time subsequent to the commitment of

an insane person in the asylum, it shall come to the knowledge of the Probate Judge committing such person, that he has a residence in some other county of the Territory, or that any person is liable for the cost of commitment or care and keeping of the person committed, he shall forthwith transmit to such county or person a copy of the affidavit, warrant of commitment and certificate aforesaid, as also the amount of costs for which the person or county is liable.

SEC. 36. The kindred or friends of an inmate of the asylum may receive such inmate therefrom upon giving satisfactory evidence to the Probate Judge issuing the commitment, that they are capable and suitable to take charge of and give proper care to such insane person, and upon giving a bond to said Court in the following form:

TERRITORY OF UTAH, }
COUNTY OF..... } ss.

Know all men by these presents that we....
.....and.....as principal, and.....
.....as sureties, are held and firmly bound un-
to the people of the Territory of Utah in the
sum of.....dollars, lawful money of the United
States of America, to be paid to the Treasurer of
the Territorial Insane Asylum, for which pay-
ment well and truly to be made we bind our-
selves, our executors and administrators, jointly
and severally, firmly by these presents. Sealed
with our seals and dated this....day of.....
A. D.....

The condition of the above obligation is
such that whereas an order was made by the
Probate Judge ofcounty Territory of
Utah, directing the Medical Superintendent
of the Territorial Insane Asylum to deliver
the person of....., an insane person,
to.....the.....of said insane per-
son, + the said order being that the said.....
will take charge of and properly care for the said
.....;that he will obey all orders of the
said Judge of the Probate Court relating to the
proper care and custody of said patient, and that
he will return said.....to the asylum

when so ordered by the said Probate Judge, and will obey the laws of the Territory relating to insane persons.

Now, therefore, if the said.....shall faithfully perform the duties and comply with the requirements herein set forth, then this obligation shall be void and of no effect, else to remain in full force and virtue.

Signed, sealed and delivered in presence of

..... [SEAL.]
 [SEAL.]
 [SEAL.]

TERRITORY OF UTAH, }
 County of..... } ss.

.....and.....being duly sworn each deposes and says that he is a resident of this Territory and a freeholder therein, and is worth the sum of..... dollars over and above all his debts and liabilities, exclusive of property exempt from execution.

Subscribed and sworn to before me this..... day of.....

....., Probate Judge.

On filing the forgoing bond and making proof as herein required, the Probate Judge shall issue his order to the Medical Superintendent directing him to deliver said insane person to the party making the application, for the custody of said insane person, which order shall be in the following form.

TERRITORY OF UTAH }
 COUNTY OF..... } ss.

To the Medical Superintendent of the Territorial Insane Asylum, whereas,.....has made application for the custody of....., an insane person who was by me committed to the Territorial Insane Asylum on theday of, and he having complied with the provision of the law in such cases made and provided, you are hereby directed to deliver the saidan insane person, to

....., Probate Judge.

And if after such removal it is brought to the knowledge of the judge that the person thus re-

Order!

der on bond.

Recommitted.

moved is not cared for properly, or is dangerous to persons or property by reason of such want of care, he may order such person returned to the asylum. *Provided*, no patient who may be under a criminal charge or conviction, shall be discharged from the asylum without the order of the court having jurisdiction of such case. Who not released.

SEC. 37. When it shall appear upon affidavit filed or other evidence, that any person is not insane and is unjustly deprived of his liberty, the Board of Directors shall order an immediate inquiry into the merits of the case by the Probate Judge of the county in which such insane person is held, and for the purposes of such inquiry, said judge is hereby invested with authority to make all orders necessary for the proper discharge of said duty. If on such examination it shall appear to said judge that the said person is not insane, he shall order his immediate discharge, by using the following order, to-wit: Illegal confinement.

TERRITORY OF UTAH, }
COUNTY OF..... } ss.

To the Medical Superintendent of Territorial Asylum, greeting:

Having this day examined a person heretofore committed to the insane asylum, and having adjudged the said as being now sane and restored to reason, you are therefore directed to return said to the County of at the expense of said County. Release.

....., Probate Judge.

If found to be insane they shall order his continued detention and may order the parties demanding such inquiry to pay the costs of the examination. Detention costs.

SEC. 38. When there is not sufficient room to accommodate all who are committed to the asylum as provided by law, they shall take precedence in the following order: Precedence.

1. Recent or curable cases.
2. Violent or dangerous cases.
3. Indigent patients.
4. Pay patients.

Estate liable.

SEC. 39. The provisions herein made for the support of the insane at public charge shall not release the estate of such persons from liability for their support, and the Territorial Auditor of Public Accounts, is authorized and empowered to collect from the estate of such persons and sums paid by the Territory in their behalf.

Non-admission

SEC. 40. No case of infectious or contagious disease shall be admitted into the asylum.

Special cure.

SEC. 41. The relatives or friends of any patient of the asylum shall have the privilege of paying any portion or all of the expenses of such patients therein, and the Medical Superintendent shall cause the account of such patient to be credited with any such sums so paid. If the relatives or friends of any patients shall desire it, and shall pay the expenses thereof, such patient may have special care and may be provided with a special attendant, as may be agreed upon with Medical Superintendent in such cases; the charge for such special care and attendance shall be paid quarterly in advance, and the Medical Superintendent shall make report thereof to the Board of Directors.

Appeal.

SEC. 42. Upon receipt of the copy of affidavit and warrant of commitment from the Probate Judge, the parties therein charged with the cost of commitment and of care and keeping, or any other person acting in behalf of such person committed, may appeal from any order made in such commitment to the District Court for the district wherein such patient may reside, by filing with the Probate Judge committing such patient, within ten days thereafter, a notice setting forth the order from which such appeal is taken. If such notice be not given within the time herein prescribed such parties shall be deemed to have waived such right of appeal and shall be bound by all orders made in such warrant of commitment.

Exemption
jury service.

SEC. 43. All resident officers, attendants, assistants and employees in the institution shall

be exempt from jury service during the term of such employment.

SEC. 44. Any insane person found at large and not in care of some proper person, shall be arrested by any peace officer and shall be immediately taken before the Probate Judge of the county in which such arrest is made. Insane at large.

SEC. 45. No person supposed to be insane shall be restrained of his liberty by any other person, otherwise than in pursuance of authority obtained, as herein provided, excepting for such brief period as may be necessary for the safety of person and property and until such authority can be obtained. Restraint.

SEC. 46. Examining physicians shall be allowed by the county court of the county in which the examination is had, five dollars each, unless they are otherwise paid. Physician's fees.

SEC. 47. All costs for the examination and commitment, also for suitable clothing at the time of commitment which shall be furnished by the Medical Superintendent, shall be paid by the county of which such patient is a resident. If he be not indigent the county shall receive the cost thereof from the party liable therefor. Costs.

SEC. 48. On information laid before the Probate Judge of any county that a certain insane person in the county suffering for want of proper care the said Judge shall forthwith inquire into the matter, and if he find the information well founded, he shall make all needful provision for the care of such person. Information.

SEC. 49. On receipt of notice from the Board of Directors that any person committed to the asylum is refused admission therein for want of room, the Probate Judge shall require that such patient be suitably provided for until such admission can be had or until the occasion therefor no longer exists. If such person is indigent the county shall be entitled to receive from the Territory a sum equal to the amount allowed by the Territory for cost of care and keeping of indigent patients in the insane asylum. Committed, refusal admission.

PENALTIES.

Misdemeanor. SEC. 50. If any person shall in any wise attempt to introduce another into the asylum contrary to the provisions of this Act, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum more than fifty dollars and less than three hundred dollars.

Misdemeanor, damages. SEC. 51. Any person having care of an insane person and restraining, said person, either with or without authority, who shall treat such person with wanton severity, harshness or cruelty, or shall in any way abuse such insane person, shall be guilty of a misdemeanor, besides being liable in an action for damages.

Fine and imprisonment. SEC. 52. If any person shall, without permission, enter any of the buildings or enclosures appropriated to the use of the patients, or shall make any attempt to do so, or shall enter anywhere upon the premises belonging to said asylum and commit or attempt to commit any trespass or depredation thereon, or if, either from within or without the enclosure, wilfully annoy or disturb the peace or quietness of the institution or any patient therein, upon conviction thereof before any Justice of the Peace, he may be fined in any sum not less than five dollars nor more than fifty dollars, or may be imprisoned not less than five nor more than fifty days, or both such fine and imprisonment, in the discretion of the court.

Fine and imprisonment. SEC. 53. If any person shall abduct or induce any patient to elope or escape from said asylum, or shall attempt to do so, or shall aid or assist therein, he shall, upon conviction thereof, be fined in any sum over fifty dollars and less than three hundred dollars, or be imprisoned not less than fifty days or more than six months, or both such fine and imprisonment, in the discretion of the court.

Fine and damages. SEC. 54. Whoever shall bring or cause to be brought into any county in this Territory, any

pauper, idiotic or insane person, with the intent to make him a charge upon the Territory, or any county thereof, shall be fined one hundred dollars, besides being liable at the suit of the Territory or county, as the case may be, for all damages incurred thereby, besides the cost of transportation to the place from whence he came. The county courts are hereby invested with authority to transport such pauper, idiot or insane person to the place from whence he came.

Non-resident
paupers, insane
etc., disposition

SEC. 55. Any person refusing or neglecting to comply with, or wilfully and knowingly violating any of the provisions of this Act, except where another penalty is herein provided, shall, upon conviction thereof, be fined in any sum not exceeding \$500.00, or be imprisoned not more than three years, or both such fine and imprisonment, at the discretion of the court.

Fine and im-
prisonment.

SEC. 56. This Act shall take effect upon its approval by the Governor.

Approved March 8, 1888.

CHAPTER XXXVI.

DEAF MUTES.

AN ACT to Establish an Institution for Deaf Mutes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: 1. That the Chancellor and Board of Regents of the University of Deseret, shall establish and maintain in connection with, and as a branch of, said University, and under the supervision and management of said Chancellor and Board of Regents, a department thereof to be known as the Institution of the Deaf Mutes.

Institution.

2. The principal object of said institution shall be to afford the means of education to the indigent deaf mutes of this Territory in the common branches of knowledge, and in useful trades.

Object.

3. Said Chancellor and Board of Regents may establish in connection with said institution a mechanical department, the nature of which shall be determined by said Board of Regents, in which the pupils shall receive instruction.

4. The Board of Regents shall erect on the University grounds such suitable buildings for the use of said institution, as they may deem appropriate for the same.

5. To carry out the provisions of this Act, the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the Territorial Treasury, not otherwise appropriated, for the erection of suitable buildings as is hereinbefore provided for, and the further sum of five thousand dollars annually for the next two years for the support and maintenance of the indigent deaf mutes of this Territory, to be drawn by the said Chancellor and Board of Regents, and expended by them, subject to the provisions of this Act.

Approved March 8, 1888.

CHAPTER XXXVII.

FISH AND GAME.

AN ACT Supplemental and Amendatory to Chapter VI Session Laws of 1884, Entitled "An Act for the Protection of Fish and Game."

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:*

1. That every person who between the fifteenth day of March and the fifteenth day of September in each year, willfully takes, kills, destroys or offers for sale any kind of wild geese or wild ducks; or who shall at any time rob the nest of the above mentioned birds; or who shall kill any wild geese or ducks between one hour

When unlawful to kill, etc.

after sunset and one hour before sunrise shall be guilty of a violation of the provisions of this section.

2. Any person who shall, within four years, kill any bird of the kind generally known and designated as imported quail, or who shall have the dead bodies of any such birds killed within this Territory, in his possession within the confines of the Territory of Utah, shall be guilty of a violation of the provisions of this section.

3. Any person violating the provisions of this section shall be fined in a sum not less than ten nor more than fifty dollars.

SEC. 2. Every person who between the 15th day of November of each year and the 15th day of August following takes, kills or destroys any deer, or who shall at any time kill any of the above animals for their skins, is guilty of a misdemeanor.

SEC. 3. Every person who puts into the waters of this Territory any poisonous substance, giant powder or other explosives, upon conviction thereof, shall be fined in any sum not less than one hundred dollars or imprisonment not less than one hundred days, or may be punished by both fine and imprisonment.

SEC. 4. It shall be a misdemeanor to take out of this Territory any game taken or killed within its boundaries.

SEC. 5. The county court of each county of this Territory shall appoint a fish and game commissioner, whose term of office shall be for two years and until his successor is appointed and qualified; said commissioner shall, before entering on the duties of his office, take and subscribe to an oath of office and give a bond in the penal sum of one thousand dollars for the faithful performance of his duty, said bond to be filed with the probate judge. The commissioner shall receive such compensation as shall be determined by the county court, to be paid out of the county treasury, and shall perform his duties under the direction of the county court.

Duty of Commissioner.

It shall be the duty of the commissioner to see that all laws of this Territory for the protection of fish and game are faithfully enforced, and shall report his doings to the county court quarterly. All fines and forfeitures for violation of the provisions of this Act shall be paid into the county treasury of the county wherein the offense shall have been committed.

SEC. 6. That sections 1 and 2 of Chapter VI Laws of 1884 be and are hereby repealed.

Approved March 8, 1888.

CHAPTER XXXVIII.

CORPORATIONS—CRUELTY TO ANIMALS.

AN ACT To Establish Corporations for the Prevention of Cruelty to Animals.

Organization.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That any number of persons not less than five, may become a body corporate for the purpose of preventing cruelty to animals and fowls. Such corporation shall be formed by the persons associated for that purpose, executing under their hands, and acknowledging before some person authorized to take acknowledgements of deeds, articles of association, which shall contain:

1. The proposed corporate name of the association;
2. The place where the principal office of the corporation shall be located;
3. The period for which the corporation shall continue;
4. The objects of the corporation;
5. The names of the persons associating, and their respective places of residence;
6. The number of directors and regular officers;
7. The terms and conditions of membership, both active and honorary.

SEC. 2. A copy of such articles of association, so executed and acknowledged, verified by the affidavit of one of the persons who executed the original, shall be filed and recorded in the office of the clerk of the district court, or in the office of the clerk of the county court, and said clerk shall issue, under the seal of said court, a certificate to the effect that such articles of association have been filed and recorded in his office, which certificate, together with a copy of the articles of association, certified by the District clerk or clerk of the county court, shall be filed in the office of the Secretary of the Territory, who shall issue, under the great seal of the Territory, a certificate of incorporation, and thereafter the persons so executing such articles, and those who may afterwards become associated with them, shall become and be a body politic and corporate, for the purposes in such articles mentioned.

Articles where
filed and
recorded.

Certificate of
incorporation.

SEC. 3. The affairs of such corporation shall be managed by a board of directors, to be chosen in the first instance by the persons who shall have executed the articles of association, and thenceforth, annually by the members of the association. The president, secretary and treasurer of the association shall be chosen by the board of directors, and the president shall be ex-officio member of the board.

Management.

SEC. 4. The board of directors shall have power to make by-laws, prescribing the terms and conditions of membership of the association and in respect to all other matters relating to the association and its business, not inconsistent with the provisions of this Act. A majority of the members of the board shall constitute a quorum for the transaction of all business.

Directors, by-
laws, quorum.

SEC. 5. Any corporation organized under this Act shall have power to take, hold, and convey real and personal property, not exceeding ten thousand dollars in the aggregate.

Real estate.

SEC. 6. Such corporation shall, whenever required by the Auditor of Public Accounts, make

Report.

and file with that officer, a report, giving a full statement of its affairs, showing the amount of money and the property, its character and value received by it, and from whom such money and property have been received, and also the disposition made thereof, together with an itemized statement of all money expended by it, and for what purpose.

Objects.

SEC. 7. The objects of such corporation shall be to prevent cruelty to animals and fowls by the enforcement of all laws of the Territory on such subjects, and all other lawful means, and shall exercise no other powers.

SEC. 8. This Act shall take effect upon its passage and approval.

Approved March 8th, 1888.

CHAPTER XXXIX.

INTOXICATING LIQUORS—LICENSE.

AN ACT Amending Section 3, Chapter XXVIII, Laws of 1882, of "An Act Licensing and Regulating the Manufacturing and Sale of Intoxicating Liquors, Approved March 9, 1882.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 3, Chapter XXVIII, Laws of 1882, "An Act Licensing and Regulating the Manufacturing and Sale of Intoxicating Liquors," be and is hereby amended to read as follows:

License.

Section 3. The county court or city council, as the case may be, after the petition, statement and bond have been filed as required in the preceding section, shall determine the amount to be paid for the license prayed for, which shall be at the rate of not less than six hundred, nor more than twelve hundred dollars for the period of one year; but licenses of the same classes of business shall be uniform in

amount in such city or county. Said court or council, as the case may be, shall also determine the time for which the license shall be granted, but no license shall be issued for a longer period than one year, nor for a less period than three months.

Approved March 8, 1888.

CHAPTER XL.

ESTRAYS AND POUNDS.

AN ACT Amending Chapter 8, Laws of 1886, Providing for Impounding Animals and Prescribing the Regulations of Pounds and for Disposing of Estrays.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 3, Chapter VIII, Laws of Utah, 1886, be amended by inserting between the words, "third" and "do" in the tenth line of said section, the words, "In all other cases where said animals."

SEC. 2. That Section 4 of said Act be amended by striking out all of said Section after the word "inoperative" in line eight of said Section.

SEC. 3. That Section 5 of said act be stricken out and the following substituted in lieu thereof:

Sec. 5. The owner or occupant of any property may distrain all animals doing damage upon such property, and may keep such animals in some secure place, or may deliver said animal or animals to the precinct pound keeper until his damages are appraised, and in order to be entitled to recover damages, shall, within twenty-four hours after it is known to him that the trespass is committed, get some disinterested male citizen, a freeholder, over twenty-one years of age, to appraise the damages, and give a statement thereof in writing, setting forth the amount, time and place of the damage, the name

Animals doing
damage; how
impounded;
damages, how
assessed.

of the person damaged, and if known, the name of the owner of the animals, with a description of the animals, thereupon, the person aggrieved shall notify the owner of said animals, if the owner shall be known to him and resides within six miles from the place of trespass, which notice he shall deliver or cause to be delivered to the owner or left at his place of residence, he shall be allowed fifteen cents per mile one way only for serving said notice. If the owner cannot be found, or if found, shall refuse to pay all costs and damages, then said statement, at the expiration of forty-eight hours, together with said animals, if not already in the charge of the pound keeper, shall be placed in the charge of the pound keeper of the precinct in which the trespass was committed; *Provided*, That if the owner of said animals deems the appraisal too high, he may choose another appraiser having the qualifications herein provided, who, with the first, shall make a new appraisal, or when they cannot agree, they two may choose a third, and they shall proceed and make another appraisal which shall be final, said appraisers shall be allowed a reasonable compensation for their services, which compensation, together with the costs, shall be paid by the owner of the animals.

SEC. 4. That Section 6 of said Act be amended by striking out the word ten in line fifteen of said section and inserting the word "fifteen" in lieu thereof, and by inserting between the words "said" and "days" in line twenty-three of said section, the word "fifteen."

SEC. 5. That Section 8 be amended by striking out the word "ten" in line four of said Section and inserting in lieu thereof the word "fifteen" and by striking out the word "ten" in the twelfth line of said section, and inserting in lieu thereof the word "fifteen."

SEC. 6. That Section 17 of said act be stricken out.

Approved March 8, 1888.

CHAPTER XLI.

SECRETARY'S FEES.

AN ACT Prescribing Fees for the Secretary of Utah Territory.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That from and after the passage of this Act, the Secretary of Utah Territory, for services performed in his office, may charge and collect the following fees;

1. For a copy of any law, resolution, record, or other document filed or of record in his office, twenty cents per folio.

2. For affixing certificate of the Secretary, and the seal of the Territory; or for the certificate of qualification of any officer, one dollar.

3. For filing papers of incorporation, five dollars.

4. For issuing certificate of incorporation, three dollars.

5. For each commission issued by the Governor and attested by the Secretary to a Territorial, county, precinct or municipal officer, except a notary public, one dollar.

6. For each commission issued by the Governor and attested by the Secretary to a notary public, three dollars.

7. For each commission issued to a commissioner of deeds or other document, or warrant not hereinbefore specified, signed by the Governor and attested by the Secretary, pardons excepted, five dollars.

8. For filing statement of insurance company, or power of attorney of a corporation to agent, or for filing any other paper or document not hereinbefore specified, except official oaths or bonds, five dollars.

9. For issuing certificate of authority to the agent of an insurance company, five dollars.

SEC. 2. All other Acts and parts of acts in relation to the fees of the Secretary of the Territory, are hereby repealed,
Approved March 8, 1888.

CHAPTER XLII.

WARRANTS—LEGALIZING.

A RESOLUTION Legalizing Certain Warrants Issued by the Auditor of Public Accounts in favor of the Directors of the Territorial Insane Asylum.

WHEREAS, By reason of the failure of the Appropriation bill of March 9, 1886, the insane asylum was left without funds to pay expenses of the care and treatment of patients therein, and

WHEREAS, The Auditor of Public Accounts, under advice of His Excellency, Caleb W. West, et al., issued warrants on the treasury for the care and support of said patients to the amount of \$23,248.82, therefor

Be it Resolved by the Governor and Legislative Assembly of the Territory of Utah: That the action of said Auditor is hereby ratified and confirmed, and the Auditor is hereby authorized to credit the asylum accordingly, with said amount.

This resolution shall take effect from and after the date of its passage and approval.

Approved March 8, 1888.

CHAPTER XLIII.

CORPORATIONS—GENERAL.

AN ACT Amending Section 1 of Chapter 1 of Chapter XLV of Session Laws of Utah, 1884.

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That Section 1 of Chapter 1 of Chapter XLV of the Session Laws of Utah, 1884, be amended so as to read as follows:

Section 1. Hereafter, whenever any number of persons, not less than five, one-third of whom being residents of this Territory, and desirous of associating themselves together for the establishing and conducting any mining, manufacturing, commercial, or other industrial pursuit, (or for conducting the business of loan, trust or guarantee associations, and for the construction or operation of wagon roads, irrigating ditches or the colonization and improvement of lands, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable, or scientific associations, or for any rightful subject consistent with the constitution and laws of the United States and the laws of this Territory, and who wish to incorporate for that purpose, may, by complying with the provisions of this act, become a body corporate.

Approved March 8, 1888.

CHAPTER XLIV.

PUBLIC HEALTH.

AN ACT Amending Section 220, Title X of the Penal Code of Crimes against the Public Health and Safety.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 220, Title X of Crimes against the Public Health and Safety, of the Penal Code, Compiled Laws of Utah, be and the same is hereby repealed, and the following is substituted in lieu thereof:

Sec. 220. Every person driving any conveyance drawn by horses or mules upon any public road, street or highway, public square or school ground, who willfully causes or permits his horses or mules to run at sufficient speed to endanger human life or the destruction of prop-

Misdemeanor.

erty; or any person who causes or permits his horses or mules to run with intent to pass another conveyance, or to prevent such other conveyance from passing his own; or any person who rides any horse or mule, or drives any loose animals over any public road, street or highway, public square or school ground at such a speed as to endanger human life, or the destruction of property, shall be deemed guilty of a misdemeanor.

Approved March 8, 1888.

CHAPTER XLV.

MARRIAGE.

AN ACT Regulating Marriage.

Incestuous and void.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces or aunts and nephews, or between any persons related to each other within and not including the fourth degree of consanguinity, computed according to the rules of civil law, are incestuous and void from the beginning, whether the relationship is legitimate or illegitimate.

SEC. 2. Marriage is prohibited and declared void:

Prohibited; void.

1. With an idiot or lunatic.
2. When there is a husband or wife living from whom the person marrying has not been divorced.
3. When not solemnized by an authorized person, except as provided in section 7 of this act.
4. When at the time of marriage the male is under fourteen, or the female is under twelve years of age.
5. Between a negro and a white person.
6. Between a mongolian and a white person.

SEC. 3. When the marriage is contracted in good faith and with the belief of the parties that a former husband or wife then living was dead or legally divorced, the issue of such marriage, born or begotten before notice of the mistake, shall be the legitimate issue of both parents. Legitimate issue.

SEC. 4. Courts having general equity jurisdiction may declare void a marriage obtained by force or fraud, or at the instance of any next friend, where the male was under sixteen, or the female under fourteen years of age at the time of the marriage, and the marriage was without the consent of the father, mother, guardian or other person having the proper charge of his or her person, and has not been ratified by cohabitation after that age. May be decreed void.

SEC. 5. Marriages solemnized in any other county, State or Territory, if valid when solemnized, are valid here. Valid.

SEC. 6. No marriage solemnized before any person professing to have authority therefor, shall be invalid for want of such authority, if it is consummated with the belief of the parties, or either of them, that he had authority, and that they have been lawfully married. Belief.

SEC. 7. Marriages shall be solemnized by the following persons only:

1. Ministers of the gospel, or priests of any denomination, in regular communion with any religious society. Who may solemnize.

2. Probate judges, justices of the peace, and judges of the district and supreme courts.

SEC. 8. No marriage shall be solemnized without a license therefor, issued by the clerk of the probate court of the county in which the female resides at the time; *Provided*, That when she is of full age or a widow, and it is issued on her application in person or by writing, signed by her, it may be issued by the clerk of any probate court. License.

SEC. 9. If at the time of applying for license the male shall be under twenty-one or the female under eighteen years of age, and not before mar- License.

ried, no license shall issue without the consent of his or her father, mother or guardian, personally given or certified in writing to the clerk, over his or her signature, attested by two or more subscribing witnesses, and proved by the oath of one of them, administered by the clerk. When the parties are personally unknown to the clerk a license shall not issue until an affidavit is made before the clerk, which shall be filed and preserved by him by the party applying for such license, showing that there is no lawful reason in the way of such marriage. The party making such affidavit, or any subscribing witness, if he falsely swear therein, is guilty of perjury.

Perjury.

SEC. 10. The person solemnizing the marriage shall, within thirty days thereafter, return the license to the clerk of the probate court of the county whence it issued, with a certificate of the marriage, over his signature, giving the date and place of celebration and the names of two or more witnesses present at the marriage. For failing to make such return he is guilty of a misdemeanor.

Certificate of marriage.

Misdemeanor.

SEC. 11. The license, together with the certificate of the person officiating at the marriage, shall be filed and preserved by the said clerk, and shall be recorded by him in a book kept for that purpose, which shall be properly indexed in the names of the parties so married.

Certificate to be recorded.

SEC. 12. If any person shall solemnize a marriage without such license, he shall be imprisoned not less than one nor more than twelve months in the county jail, or fined not more than one thousand dollars, or both fined and imprisoned.

Penalty for performing without license

SEC. 13. If any person, not authorized, shall solemnize a marriage under pretense of having authority, or falsely personate the father, mother, or guardian in obtaining a license, or forges the name of any father, mother or guardian to any writing purporting to give consent to such marriage, he shall be punished by imprisonment in the penitentiary not exceeding three years.

False personating.

Punishment.

SEC. 14. If any authorized person shall knowingly, with or without license, solemnize a marriage such as is herein prohibited, he shall be imprisoned in the penitentiary not exceeding three years, or fined not exceeding one thousand dollars, or both fined and imprisoned.

Without
authority; fine
and imprison-
ment.

SEC. 15. Every clerk or deputy clerk who shall knowingly issue a license for any prohibited marriage, shall be punished by confinement in the penitentiary for a term not exceeding two years, or fined in any sum not exceeding one thousand dollars, or by both fine and imprisonment; and in case of conviction, shall be expelled from his office by the judgment of the court before which his conviction is had. And if he wilfully issue a license contrary to his duty as herein prescribed, he shall be fined not exceeding one thousand dollars.

Clerks' punish-
ment for violat-
ing the law.

SEC. 16. In the absence of the clerk, or during a vacancy in the office, the license may be issued by the probate judge, who in so doing shall perform the duty and incur all the responsibilities of the clerk, and be liable to the same penalties, and shall return a memorandum thereof to the clerk, and the same shall be recorded as if issued by him.

Probate judge
may issue
license.

SEC. 17. When doubt is felt as to the validity of a marriage, either party may, in a court of equity, demand its avoidance or affirmance; but when one of the parties was within the age of consent at the time of the marriage, the other party being of proper age shall have no such proceeding for that cause against the party under age.

Validity, how
adjudicated.

SEC. 18. All fines collected for any violation of this Act shall be paid into the Treasury of the Territory.

Fines, where
paid.

SEC. 19. The clerks of the several probate courts shall be entitled for each license issued the sum of one dollar, and for recording the same, when returned to him, the sum of one dollar and twenty-five cents, all of which he may demand at the time of issuing the license.

Fees.

Approved March 8, 1888.

CHAPTER XLVI.

BANKING.

An Act Providing for Banking.

Number of
subscribers.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That any number of persons not less than than six, two-thirds of whom shall be residents of this Territory, being subscribers to the stock of any contemplated bank or savings institution, may be formed into a corporation for the purpose of owning and maintaining such bank or savings institution.

Organization.

SEC. 2. That whenever stock to the amount of at least one hundred thousand dollars shall have been subscribed, and twenty-five per cent, in cash paid thereon to the treasurer appointed by said subscribers from among their number, then such subscribers, either in person or by written proxy, after having received not less than four days' notice from said treasurer of a meeting for that purpose, may meet and adopt articles of association, and may elect from among their number not less than five directors, *Provided*, that in cities or towns having a population of more than ten thousand inhabitants and less than twenty thousand, corporations may be formed with a capital stock of at least fifty thousand dollars, and in cities or towns having a population of less than ten thousand inhabitants, corporations may be formed with a capital stock of at least twenty-five thousand dollars.

SEC. 3. Said articles of association shall set forth:

What to set
forth.

1. The fact that the articles are entered into and the agreement subscribed, to enable such persons to avail themselves of the privileges of this law.

2. The amount of capital stock and the number of shares into which the same is to be divided.

3. The names and places of residence of the shareholders, and the number of shares held by each of them.

4. The number and kind of officers to manage the affairs of the company, and the names of those for the first year.

SEC. 4. Each stockholder shall personally subscribe to such articles of association his Stockholders. name, place of residence, and the number of shares of stock taken by him in such company; *Provided*, in case a person having duly paid the twenty-five per cent required upon subscription, said articles may be signed by written proxy or power of attorney to that effect, and there shall be endorsed and attached to said articles so subscribed, an affidavit made by any three or more of the subscribers named therein, before a judge of some court of record, or notary public, setting forth in substance the amount of stock which has been subscribed, and that twenty-five per cent in cash has been paid thereon as aforesaid, and that the subscribers to said articles are personally known to them, and that they believe such subscribers are able to and will pay the amount by them subscribed.

SEC. 5. The articles of association formed in pursuance of the foregoing sections shall be filed in the office of the clerk of the probate court (or in the office of the clerk of the district court,) who shall issue, under the seal of said court, a certificate to the effect that the articles of association have been filed in his office, which certificate, together with a copy of the articles, must be filed in the office of the Secretary of the Territory, who shall issue under the great seal of the Territory, a certificate of incorporation, and thereupon the persons who have subscribed said articles and all persons who may from time to time become stockholders in said company, shall be a body politic and corporate, by the name stated in its articles of association, and said corporation shall have power:

Articles, where
filed.

Certificate of
incorporation.

1. To adopt and use a corporate seal.

Fifty years.

2. To have succession for a period of fifty years from its organization, unless it is sooner dissolved according to the provisions of its articles of association, or by act of its shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law.

3. To make contracts.

Powers.

4. To sue and be sued, complain and defend in any court of law and equity as fully as natural persons.

Officers.

5. To elect by its stockholders, directors from time to time, and by its board of directors to appoint a president, a vice-president, cashier, and such other officers as shall be provided for in its articles of association, define their duties, require bonds of them, and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places.

By-laws.

6. To prescribe, by its board of directors, by-laws, not inconsistent with law regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted and the privileges granted to it by law exercised and enjoyed.

Incidental powers.

7. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking by discounting or negotiating promissory notes, drafts, bills of exchange and other evidences of debt, by receiving deposits, by buying and selling exchange, coin and bullion, and by loaning on personal or real security.

Purchase real estate.

SEC. 6. Banking associations formed under this law shall also have power to hold and convey real estate for the following purposes, to-wit:

1. Such as shall be necessary for its accommodation in the transaction of its business.

2. Such as shall be mortgaged in good faith by way of security for debts duly contracted.

3. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

4. Such as it shall purchase at sales under judgments, decrees or mortgages held by the association, or shall purchase to secure debts due to it.

SEC. 7. No association shall be organized under this law with a capital stock of less than twenty-five thousand dollars and as is provided in Section 2 of this act. Capital stock.

SEC. 8. The capital stock of the association shall be divided into shares of not to exceed one hundred dollars each, nor less than fifty dollars, and shall be deemed to be personal property, and shall be transferred on the books of the association in such manner as may be prescribed by the by-laws and articles of association. Stock how divided. Same personal property.

SEC. 9. Every person becoming a shareholder by such transfer, shall, in proportion to his share, succeed to all the rights and liabilities of the previous holder of said shares, and no change shall be made in the articles of association by which the rights, remedies or securities of existing creditors of the association shall be impaired. Transfer of shares.

SEC. 10. At least twenty-five per cent. of the capital stock of every association formed under this law shall be paid in cash before it shall be authorized to commence business, and thereafter the remainder due thereon in installments of not less than ten per cent monthly until the full amount of the capital so subscribed shall have been paid; *Provided*, whenever any shareholder, or his assignee, fails to pay any installment of stock when the same is required as provided above, the directors of such association may sell so much of the stock of such delinquent shareholder as may be necessary, at public auction, after giving two weeks previous notice thereof, in a newspaper published or of general circulation in the county where the association is located, or if no newspaper is published in the city or county, then in a newspaper published nearest thereto, to any person who will pay the highest price therefor, to be not less than the amount then due there- Subscriptions, how paid. Sale of stock.

on with the expenses of advertising and sale, and the excess, if any, shall be paid to the delinquent shareholder. If no person can be found who will buy such stock at the amount due thereon to such association, and the costs of advertising the sale, then the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order, within six months from the day of said forfeiture, and if not sold, shall be deducted from the capital stock of the association.

Increase of
capital.

SEC. 11. Any association formed under this law, may by its articles of association, provide for an increase of its capital from time to time as it may be deemed expedient, but in no case shall the capital stock of such association be increased to exceed one million dollars, and no increase shall be valid until at least twenty-five per centum thereof shall be paid in and the balance shall be paid in the same manner as is provided in Section 10 of this act.

Reduction of
capital.

SEC. 12. Any association formed under this law may reduce its capital by vote of its shareholders owning two-thirds of its capital stock to any sum not below the amount required, authorizing the formation of the corporation, *Provided*, the capital shall never be reduced so as to in any way impair the security of its existing creditors,

Votes.

SEC. 13. At any meeting of the shareholders each shareholder shall be entitled to one vote for each share of stock held by him. Shareholders may vote by proxy duly authorized in writing.

Term and
qualification of
office.

SEC. 14. The officers named in the articles of association of any company formed as provided for herein, shall hold office for a period of one year, and until their successors are duly elected and qualified in the manner provided by its articles of association, and every officer of the corporation must own in his own name at least five shares of the capital stock of the association of which he is an officer.

Vacancy.

SEC. 15. Any officer who ceases to be the owner of five shares of stock, or who becomes in

any manner disqualified, shall thereby vacate his office.

SEC. 16. A certified copy of the certificate of incorporation under the hand and seal of the officer with whom the articles of associations are filed as aforesaid, shall in all courts be deemed prima facie evidence of the legal existence of such corporation. Evidence.

SEC. 17. Any vacancy of the board shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election. Vacancy, how filled.

SEC. 18. If from any cause an election for directors is not made at the time appointed, the association shall not for that cause be dissolved; but an election may be held on any subsequent day, thirty day's notice thereof having been first given in some newspaper published in the city, town or county in which the association is located, or if no newspaper is published in such city, town or county, such notice shall be published in the newspaper published nearest thereto. Special elections.

SEC. 19. If the articles of association fail to fix the day on which the election for directors shall be had, or if no election is held on the day fixed, the day for election shall be designated by the board of directors, in their by-laws or otherwise; or if the directors fail to fix a day, shareholders representing two-thirds of the capital stock may do so. Day of election

SEC. 20. The shareholders of every banking or savings association organized under this law shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein at the par value thereof, in addition to the amount invested in and due on such shares. Individual liability.

SEC. 21. Every banking association formed under this law shall make and publish a statement of its resources and liabilities at least every quarter in each year (at such times as the bank Statement.

examiner hereinafter provided for shall call upon it for the same; *Provided*, that said examiner shall call for said statements upon a date at least five days previous to the date upon which said examiner shall issue said call) in some newspaper having a general circulation in the county where such bank is located, and a list of its stockholders shall be open to inspection by all persons doing business with the bank.

Limitation of
officer to
borrow.

SEC. 22. No officer of any bank or savings institution organized under this law, shall borrow money from such bank or savings institution to exceed the sum of ten thousand dollars, and no sum of money shall be loaned to any officer of said institution, unless he furnishes security in at least double the amount of the loan made, and no loan by any officer of said institution shall be made for a period of over three months, and the stock of the association shall not be taken as security for any loan; nor shall any officer of such banking association become an endorser or security for loans to others. The office of any director or officer who acts in contravention to the provisions of this section, immediately thereupon becomes vacant; and any loan he shall have made in contravention of the provisions of this section shall be immediately due and payable, and the bank shall take immediate steps to collect the same.

Dividend.

SEC. 23. The directors may, from time to time, make such dividends on their capital stock as they may deem prudent; *Provided*, they shall make no dividend on the capital stock, except profits actually earned and on hand.

Married
women and
minors.

SEC. 24. Married women and minors may, in their own right, make and draw deposits and draw dividends, and give valid receipts therefor.

Bank
Examiner.

SEC. 25. The Secretary of Utah Territory, until otherwise provided, shall be ex-officio Bank Examiner. He shall, as often as once, and not to exceed twice a year, either in person or by agent duly appointed by him, examine every bank organized under this law, and he or his agent, in

case he appoints one, shall have power to make a thorough examination into all the affairs of the association, and in so doing, may examine any of the officers and agents thereof on oath, and shall make a full and detailed report in writing of the condition of the association, which shall be filed in the office of said Examiner, and which shall be opened for the inspection of all persons doing business with the bank. Such examiner, or his agent, shall receive for his services, the sum of ten dollars per day, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined. No person shall be appointed to be such agent for said examiner to examine the affairs of any banking association of which he is a director, officer or stockholder.

SEC. 26. This act shall take effect from and after the date of the passage and approval thereof; *Provided*, that the same may be altered, changed, amended or repealed at any time hereafter.

Approved March 8th, 1888.

CHAPTER XLVII.

OCCUPYING CLAIMANTS.

AN ACT Concerning Occupying Claimants.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* In all cases, any occupying claimants being in quiet possession of any lands or tenements for which such person can show a plain and connected title, in law or equity derived from the records of some public office; or being in quiet possession of, and holding the same by deed, devise, descent, contract, bond or agreement, from

Occupying
claimants'
rights.

and under any person claiming title, as aforesaid, derived from the record of some public office, or by deed duly authenticated and recorded; or being in quiet possession of, and holding the same under sale on execution or order of sale, against any person claiming title as aforesaid, derived from the records of some public office, or by deed duly authenticated and recorded; or being in possession of, and holding any land under any sale for taxes authorized by the laws of this Territory, or any person in quiet possession of any land, claiming title thereto and holding the same under sale and conveyance, made by executors, administrators, or guardians, or by any other person or persons in pursuance of any order of the Court or decree in Chancery, when lands are or have been directed to be sold and the purchaser or purchasers thereof have obtained title to and possession of the same without any fraud or collusion on his, her, or their part, shall not be evicted or turned out of possession by any person or persons who shall set up and prove an adverse and better title to said lands until said occupying claimant, his, her or their heirs shall be paid the full value of all lasting and valuable improvements made on such lands by such occupant claimant, or by the person or persons under whom he, she or they may hold the same, previous to receiving actual notice by the commencement of suit on such adverse claim by which eviction may be effected, unless such occupying claimant shall refuse to pay the person so setting up and proving an adverse and better title, the value of the land without the improvements made thereon as aforesaid, upon the demand of the successful claimant or his heirs as hereinafter provided; *Provided*, That this article shall not apply to persons occupying and claiming any lands granted to this Territory, or granted to, or purchased by any company to aid in the construction of any works of internal improvement in this Territory.

Exception.

SEC. 2. The title by which the successful

claimant succeeds against the occupying claimant in all cases of lands sold for taxes by virtue of any of the laws of this Territory, shall be considered an adverse and better title under the provisions of this act, whether it be the title under which the taxes were due and for which said land was sold or any other title or claim whatever; and the occupying claimant holding possession of land sold for taxes as aforesaid having the deed of a collector of taxes, or county clerk, or other proper officer for such sale for taxes, or a certificate of sale of said land from a collector of taxes or other proper officer, or shall claim under the person or persons, who hold such deed or certificate, or any other title or claim whatever, shall be considered as having sufficient title to said land to demand the value of improvements under the provisions of this act.

Adverse and
better title.

Value of im-
provements.

SEC. 3. The court rendering judgment in any case provided for by this act against the occupying claimant, shall, at the request of either party, cause a journal entry thereof to be made; and the sheriff or United States Marshal and clerk of the court, when thereafter required by either party, shall meet and draw from the jury box a jury of twelve men, of the jury men returned to serve as such for the proper district in the same manner as the clerk and marshal of court are required by law to draw a jury in other cases; and immediately thereupon the clerk shall issue and order to the sheriff or marshal, under the seal of the court, setting forth the name of the jury, and the duty to be performed under this act.

Jury.

SEC. 4. The jury drawn and named in said order shall immediately, on being notified by the sheriff or marshal, proceed to view the premises in question, and then and there, on oath or affirmation, to be administered by any competent authority, assess the value of all lasting and valuable improvements made as aforesaid on the lands in question previous to the party receiving actual notice, as aforesaid, of such adverse claim;

Powers of
Jury.

and shall also assess the damages, if any, which said land may have sustained by waste, together with the net annual value of the rents and profits which the occupying claimant may have received from the same after having received notice of the plaintiff's title by service of a summons, and deduct the amount thereof from the estimated value of such lasting and valuable improvements; and said jury shall also assess the value of the land in question at the time of rendering judgment as aforesaid without the improvements made thereon or damages sustained by waste as aforesaid.

Additional
jurors.

SEC. 5. In case any one or more of the jury named in said order shall be absent from the district or of kin to either party, or from any other cause disqualified or unable to serve upon such jury, additional jurymen shall be drawn or summoned in the same manner as if originally drawn and named in said order.

Sealed verdict.
Aggrieved party
may apply
for relief.

SEC. 6. The jury shall sign and seal their respective assessments and valuations aforesaid, and deposit the same with the clerk of the court by whom they were appointed, before the first day of the next term of said court after said order is made; and if either party shall think himself or herself aggrieved by any such assessment or valuation aforesaid, he or she may apply to the court at the term to which the proceedings are returned, and said court may, upon good cause shown, set aside such assessment or valuation and order a new valuation and appoint another jury as hereinbefore provided, who shall proceed in the same manner as hereinbefore directed.

judgment.

SEC. 7. If the jurors shall report a sum in favor of the plaintiff or plaintiffs in said action, for the recovery of real property on the assessment and valuation of the valuable and lasting improvements, and the assessments of damages for waste and net annual value of the rents and profits, the court shall render a judgment therefor without pleadings, and issue executions thereon as in other cases; or if no excess be re-

ported in favor of said plaintiff or plaintiffs, then in either case the said plaintiff or plaintiffs shall ^{Bar.} be thereby barred from having or maintaining any action for mesne profits.

SEC. 8. The jurors shall report the same in favor of the occupying claimant or claimants, on the assessment and valuation of the valuable and lasting improvements, deducting therefrom the damages, if any sustained by waste, with the net annual value of rents and profits which the defendant or defendants may have received after commencement of the action of ejectment **as** aforesaid, the successful claimant, his heirs they being minors, may at his, or her, or their election, either demand of the occupying claimant the value of the land without improvement so as ^{Election by whom.} aforesaid assessed, and tender a deed of the land in question to the occupying claimant, or he, she, or they may pay the occupying claimant the sum so allowed by the jurors in his favor within such reasonable time as the court shall allow.

SEC. 9. If the successful claimant, his heirs, or the guardian of such heirs, they being minors, shall elect to pay and do pay to the occupying claimant the sum so reported in his favor by the jurors, within such reasonable time as the court may have allowed for the payment thereof, then a writ of possession shall issue in favor of said successful claimant, his heirs or the guardian of such heirs. ^{Writ of possession.}

SEC. 10. If the successful claimant, his heirs or the guardian of said heirs, they being minors, shall elect to receive the value without improvements so as aforesaid assessed to be paid by the occupying claimant within such reasonable time as the court may allow, and shall tender a general warrantee deed of the land in question, conveying such adverse or better title within said time allowed by the court for the payment of the money in this section mentioned, and the occupying claimant mentioned shall refuse or neglect to pay said money (the value of the land without improvement) to the successful claimant, his heirs or their guardians, within the time ^{Writ of possession.}

limited aforesaid, then a writ of possession shall be issued in favor of said successful claimant, his heirs or their guardians.

Decree of title.

SEC. 11. The occupying claimant or his heirs shall in no case be evicted from the possession of such land, unless as is provided in the two preceding sections, when an application is made for the value of improvements under this law; and in all cases where the occupying claimant or claimants, or his or their heirs shall have paid into court the value of the lands in question, without improvements, within the time allowed by the court (when an election has been made by the successful claimant or claimants, his or their heirs or guardians as aforesaid, to surrender any tract of land under the provisions of this act) such occupant or his heirs, may at any time after such payment shall have been made, filed his, her, or their petition in the court where such judgment of eviction was obtained and obtained a decree for the title of such land if the same has not been previously conveyed to such occupant as aforesaid.

Execution.

SEC. 12. The plaintiff shall be entitled to an execution for the possession of his property in accordance with the provisions of this act, but not otherwise.

Plaintiff not entitled to possession, except.

SEC. 13. Whenever any land sold by an executor, administrator, guardian, sheriff or marshal or commissioner of court, is afterwards recovered in the proper action of any person originally liable or in whose hands the land would be liable to pay the demand or judgment, for which or for whose benefit the land was sold, or any one claiming under such person, the plaintiff shall not be entitled to the possession of the land until he has refunded the purchase money with interest, deducting therefrom the value of the use, rents and profits and injury done by waste and cultivation, to be assessed under the provisions of this act.

SEC. 14. This act shall take effect from and after its passage and approval.

Approved March 8, 1888.

CHAPTER XLVIII.

INCORPORATION OF CITIES.

AN ACT Providing for the Incorporation of Cities.

ARTICLE 1.

SECTION 1. When the inhabitants of any part of any county not embraced within the limits of any city, shall desire to be organized into a city, they may apply, by petition in writing, signed by not less than one hundred of the qualified electors of the territory to be embraced in the proposed city, to the county court of the proper county, which petition shall describe the territory proposed to be embraced in such city, and shall have annexed thereto an accurate map or plot thereof, and state the name proposed for such city, and shall be accompanied with satisfactory proof of the number of the inhabitants within the territory embraced in said limits.

How incor-
ported.

SEC. 2. When such petition shall be presented, the court shall forthwith designate the class of the proposed city, and fix the time and place within the boundaries of such proposed city or town at which the election may be held to determine such question; and such election shall be held and conducted in the same manner, as provided by law for conducting general elections.

Class. Election.
County courts
duty.

Said court, before such election is held, shall give notice by publication in some newspaper published within said limits, if there be one, at least once a week for four successive weeks; but if there be no newspaper published therein, then by posting notices at least four weeks in five public places within said limits. Said notices shall contain a statement of the petition and describe the territory proposed to be incorporated, and the officers to be elected, and shall also design the time and place at which the

election aforesaid shall be held. The ballots used at such election shall be "for incorporation," or "against incorporation," and if "for incorporation" the names of the persons voted for.

Notice by clerk
of county court

SEC. 3. If a majority of the ballots cast at such election be in favor of such incorporation, the clerk of the county court shall immediately, on the returns of said election being filed in the proper office, give notice of the result by publication in the same manner as provided in the preceding section, and in such notices he shall designate to which of the classes of municipal corporations hereinafter provided, such city shall belong. A copy of the notice, with proper proof of its publication, shall be filed, with the papers, and a certified copy of all papers and record entries, relating to the matter on file in the clerk's office, shall be filed in the recorder's office of the county, and in the office of the secretary of the Territory.

Filed.

Publication by
secretary.

Upon the filing of said papers, it shall be the duty of the secretary of the Territory to make publication in some newspaper having general circulation within the territory of the incorporation of said city or town.

Conduct of
election.

SEC. 4. At the time of holding said election, the qualified voters within said limits, shall vote for the election of the municipal officers hereinafter provided for. Said election shall be conducted and the canvas and returns of the votes cast at said election shall be made as provided by law.

Incorporation
complete.
Judicial notice.

SEC. 5. When the papers referred to in Section 3 of this act are filed, and the officers are elected and qualified for such city or town, and publication is made by said clerk and secretary, the incorporation thereof shall be complete; and all courts in this Territory shall take judicial notice of the existence of such city or town.

Cities may in-
corporate un-
der this act,
when.

SEC. 6. Any incorporated city or town now existing in this Territory may incorporate under this act in the manner following: Whenever a majority of the qualified electors of such city or

town, as shown by the registration lists of the preceding year, shall petition the city council or board of trustees, as the case may be, to submit the question as to whether such city or town shall incorporate under this act, to the vote of the electors in such city or town, it shall be the duty of said council or board of trustees, to submit such question accordingly; and designate the class under which said city or town will come, and appoint the place at which such voting may be done; and such election shall be held and conducted as prescribed by law; *Provided*, that such question shall be submitted at the next general municipal election; but such question shall not be submitted oftener than once in two years.

SEC. 7. The mayor of such city, or the president of the board of trustees in such town, shall give notice at least once a week for four successive, weeks of such election, by publishing the notice thereof in one or more newspapers within such city or town; but if no newspaper is published therein, then by posting at least five copies of such notice in each municipal ward or voting precinct for at least four weeks, and such notices shall state the officers to be elected. Notice.

SEC. 8. The ballots to be used at such elections shall be in the following form: "For incorporation," or "Against incorporation;" and at the time of holding such election the municipal officers hereinafter provided for shall be voted for by the qualified electors. The returns of said election shall be entered upon the records of said city or town. Ballots.
Returns.

If a majority of the votes cast at such election shall be for organization under general law, such city or town shall thenceforth be deemed organized under this act; but the officers then in office shall be governed by the provisions of the charters of their respective cities or towns until the officers elected under this act are qualified. Officers.

SEC. 9. The corporate authorities of such city or town shall, within thirty days after organization hereunder, cause to be filed in the office Corporate
authorities,
duties of.

of the county recorder in the county in which said city or town is situated, a certified copy of the returns of the votes, showing the result of such election, and such recorder shall record the same. And such corporate authorities shall also cause a like certificate to be filed in the office of the secretary of the Territory, who shall file the same and keep a registry of cities organized under this act. Said secretary shall, upon filing said certificate, publish a notice in some newspaper having general circulation within the Territory, of the fact of such city or town becoming incorporated as herein provided.

Secretary of
Territory.

SEC. 10. All courts in this Territory shall take judicial notice of the change of the organization of any city or town from its original organization to its organization under this act; and from the time of organization the provisions of this act shall be applicable to such city. And all laws in conflict therewith shall no longer be applicable; but all laws, or parts of laws, not inconsistent with the provisions of this act shall continue in force and be applicable to any such city the same as if such change had not taken place.

Judicial notice.
What laws in
force.

SEC. 11. Cities incorporated under this act shall be bodies politic and corporate and shall be known and designated by the name and style of (such name as may be agreed upon) and under such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for corporate purposes, have a common seal, and may change the same at pleasure, have perpetual succession and exercise all the powers hereinafter conferred.

Name and
powers.

SEC. 12. All rights and property of every kind and description which were vested in any municipal corporation under its former organization shall be deemed and held to be vested in the same municipal corporation upon its becoming incorporated under the provisions of this act; but no rights or liabilities, either in favor of, or against such incorporation existing at the time

Property rights

of the becoming so incorporated under this act, and no action or prosecution of any kind shall be effected by such change; but the same shall stand and progress as if no change had been made; *Provided*, That whenever a different remedy is given by this act, which may properly be made applicable to any right existing at the time of such city so becoming incorporated under this act, the same shall be deemed cumulative to the remedy before provided, and used accordingly.

Remedies.

SEC. 13. All ordinances and resolutions in force in any city or town, when it shall organize under this act, shall continue in full force and effect until repealed or amended, notwithstanding such change of organization; *Provided*, That such ordinances and resolutions do not conflict with the provisions of this act, and the making of such change of organization shall not be construed to effect the change in the legal identity of the corporation of such city or town.

Ordinances in force.

SEC. 14 The municipal corporations in this Territory now existing and those hereafter organized, shall be, and the same are hereby divided into three classes. Those cities having 20,000 or more inhabitants shall be known as cities of the first class. All cities having more than 5,000 and less than 20,000 inhabitants shall be known as cities of the second class; and all other cities shall be known as cities of the third class.

Classification.

The municipal authorities of any city in this Territory are hereby authorized to appoint commissioners to take the census of such city before any municipal election; and if from the returns of said commissioners it shall be shown that any city belongs to the second or first class, it shall be the duty of the mayor to certify under the seal of the city to the Governor of the Territory the number of inhabitants of such city; and the Governor shall make proclamation that said city belongs to the second or first class, under the classification of cities as herein provided.

Census.

Proclamation by Governor.

SEC. 15. Whenever any city of the second or third class shall have attained the population

Proclamation by Governor when to be made.

of 20,000 or more, or five thousand or more respectively, and such fact shall have been duly ascertained and certified to the Governor by the mayor of either of said cities, attested by the seal thereof, he shall declare, by public proclamation, such city to be of the first or second class, as the case may be, and such city so changed shall conform to the provisions of this act.

Wards.

SEC. 16. All incorporated cities of the first and second class shall be divided into five municipal wards, the boundaries shall be prescribed by ordinance, prior to the next municipal election; *Provided*, that said ward shall be as near as may be of equal population, and as near as may be in compact form.

First class.

SEC. 17. The municipal government of all incorporated cities of the first class is hereby vested in a city council, to be composed of the mayor, who shall be a qualified elector in his city, and fifteen councilmen, three from each ward, who shall be qualified electors in their respective wards.

Mayor and council, how chosen, etc.

The mayor shall be chosen by the qualified voters of their respective cities, and the councilmen shall be chosen by the qualified voters of their respective wards; they shall hold their office for two years and until their successors are elected and qualified.

Second class, mayor and council, how chosen.

SEC. 18. The government of each municipal corporation of the second class is hereby vested in a city council, to be composed of a mayor and ten councilmen; two from each ward, all of whom shall be qualified electors in their respective wards. The mayors shall be chosen by the qualified voters of their respective cities, and the councilmen shall be chosen by the qualified voters of their respective wards. And they shall hold their offices for two years and until their successors are elected and qualified,

Third class, mayor and council, how chosen.

SEC. 19. The municipal government of cities of the third class shall be vested in a council, to consist of a mayor and seven councilmen, who shall have the qualifications of electors of

said city, and they shall be chosen by the qualified voters of said city, and shall hold their office for two years and until their successors are elected and qualified.

ARTICLE II.

OF THE MAYOR.

SECTION. 1. The chief executive of the city shall be the mayor, who shall be a qualified elector and a freeholder within the city limits, and hold his office for two years and until his successor is elected and qualified. Mayor.

SEC. 2. Whenever a vacancy shall happen in the office of mayor, the city council shall elect a mayor, who shall possess all the rights and powers of the mayor, until the next election, and until his successor is elected and qualified. Vacancy.

SEC. 3. During the temporary absence or disability of the mayor, the city council shall elect one of its number to act as mayor pro-tem, who, during such absence or disability, shall possess the power of mayor. Mayor pro tem.

SEC. 4. If the mayor, at any time during his term of office, shall remove from the limits of the city his office shall thereby become vacant. Vacation.

SEC. 5. The mayor shall preside at all meetings of the city council, but shall not vote except in case of a tie, when he shall give the casting vote. Vote.

SEC. 6. The mayor shall have power to remove any officer appointed by him, whenever he shall be of the opinion that the interests of the city demand such removal; but he shall report the reasons of such removal to the council at its next regular meeting. Removal.

SEC. 7. He may exercise within the city limits, the powers conferred upon him, to suppress disorder and keep peace; and he may remit fines and forfeitures and release any person im- Powers.

prisoned for violation of any city ordinance; and shall report such remittance or release, with the cause thereof, to the city council at its next session.

Duties.

SEC. 8. He shall perform all duties which are or may be prescribed by law or by ordinance, and shall see that the laws and ordinances are faithfully executed.

Power.

SEC. 9. He shall have power at all times to examine and inspect the books, records and papers of any officer or agent employed by the city.

Recommendations by.

SEC. 10. The mayor shall, from time to time, give the council information relative to the affairs of the city, and shall recommend for their consideration such measures as he may deem expedient.

Power, riots, etc.

SEC. 11. He shall have power, when necessary, to call upon every male inhabitant of the city over the age of twenty-one years, to aid in enforcing the laws and ordinances, in suppressing riots and other disorderly conduct, or carrying into effect any law or ordinance of the city.

Non-performance of duty, penalty.

SEC. 12. In case the mayor or any municipal officer, shall, at any time, wilfully omit the performance of any duty, or wilfully and corruptly be guilty of oppression, misconduct, or misfeasance in the discharge of his office, he shall be liable to indictment, and on conviction thereof, fined in a sum not exceeding one thousand dollars, and the court under which such conviction shall be had, shall enter an order removing such officer from office.

Revision of ordinances.

SEC. 13. He may appoint, by and with the advice of the city council, immediately after such change of organization, one or more competent persons to prepare and submit to the city council, for their adoption or rejection, an ordinance in revision of the ordinances of such city, and for the government of such city; the compensation of such revisers to be determined and fixed by the city council and paid out of the city treasury.

ARTICLE III.

SECTION. 1. Councilmen shall hold their office for the term of two years and until their successors are elected and qualified. Counciler.

SEC. 2. If any vacancy shall occur in the office of councilmen, by death, resignation, removal or otherwise, such vacancy shall be filled for the unexpired term by appointment of the city council, from the ward in which the vacancy occurs. Vacancy, how filled.

SEC. 3. No person shall be eligible to the position of councilmen unless he shall be a freeholder within the city, a qualified elector, and reside within the ward for which he is elected; nor shall he directly or indirectly be interested in any contract whatever to which the city is a party; nor shall he be eligible if he shall have been convicted of malfeasance, bribery, or corruption in his office; nor shall he be eligible to any office, the salary of which is paid out of the city treasury, if at the time of his appointment he shall be a member of the city council; nor shall any member of the city council at the same time hold any other office under the city government. Eligibility.

SEC. 4. The city council shall be the judge of the election and qualification of its own members.

SEC. 5. It shall determine its own rules of proceedings, punish its members for disorderly conduct, and with the concurrence of two-thirds of the members of the council, may expel a member for cause. Expel.

SEC. 6. The majority of the council elected shall constitute a quorum to do business; but a smaller number may adjourn from time to time and may compel the attendance of absentees under such penalties as may be prescribed by ordinance. Quorum; absentees.

SEC. 7. The city council shall prescribe the time and place of holding its meetings; *Provided*, that at least one meeting shall be held each Meetings.

month, and the mayor or any two members of the council may call a special meeting by giving a notice of it to each of the members of the council served personally or left at his usual place of abode.

Meeting, how held.

SEC. 8. It shall sit with open doors, and keep a journal of its own proceedings.

Yeas and nays on ordinances.

SEC. 9. The yeas and nays shall be taken upon the passage of all ordinances and all propositions to create any liability against the city, and in all other cases at the request of any member, which shall be entered upon the journal of its proceedings; and the concurrence of a majority of the members elected to the city council shall be necessary to the passage of any such ordinance or proposition.

No reconsideration, when.

SEC. 10. No vote of the city council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of councilmen as were present when such vote was taken.

Report of committee.

SEC. 11. Any report of a committee of the council shall be deferred for final action thereon to the next regular meeting of the council after the reports made by request of any two members of the council.

Ordinances, publication and recordation.

SEC. 12. All ordinances passed by the city council shall be signed by the mayor and be deposited in the office of the city recorder. All ordinances so passed by the council and signed by the mayor, shall be published once in some paper published within the city, if there be one, at least once a week for four successive weeks; if not, it shall be published by posting in three public places in said city; *Provided*, that whenever a revision occurs, and said revised ordinances are published by authority of the city council, no further publication shall be deemed necessary. The city recorder shall record in a book kept for that purpose, all the ordinances passed by the city council, together with the affidavits of publication by the publisher, or his agent.

And said book, or a certified copy of the or-

dinances so recorded, under the seal of the city, shall be received as evidence in all courts and places, without further proof; or if printed in book or pamphlet form by the authority of the city council, they shall be so received. When received in evidence.

ARTICLE IV.

OF THE POWER OF THE CITY COUNCIL.

SECTION 1. The city council shall have the following powers:

1. To control the finances and property of the corporation.
2. To appropriate money for corporate purposes only, and provide for payment of debts and expenses of the corporation; and to purchase, receive, hold, sell, lease, convey and dispose of property, real and personal, for the benefit of the city, both within and without its corporate boundaries; to improve and protect such property, and to do all other things in relation thereto as natural persons. City council and its powers.
3. To levy and collect taxes for general and special purposes on real and personal property. Taxes.
4. To fix the amount, terms and manner of issuing licenses. Licenses.
5. To erect all needful buildings for the use of the city. Buildings.
6. To borrow money on the credit of the corporation for corporate purposes, and issue the bonds therefor in such amounts and form, and on such conditions as it shall prescribe, but shall not become indebted in any manner, or for any purpose, to any amount including the existing indebtedness in the aggregate to exceed four per centum on the value of the taxable property therein, to be ascertained by the last assessment for the Territorial and county taxes previous to the incurring of such indebtedness; and shall provide for the payment of the interest on Borrow money, limitation.

Bonds and
sinking fund.

said bonds, as the same shall become due, and for a sinking fund for the payment of the principal of said bonds, within twenty years after contracting the same.

Bonds, reissue.

7. To issue bonds in place of, or to supply means to meet maturing bonds, or for the consolidation or funding of the same.

Streets, etc.

8. To lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, parks, and public grounds, and vacate the same.

Trees.

9. To plant, or direct and regulate the planting of ornamental and shade trees, in such streets, avenues, sidewalks, parks and public grounds.

Streets, etc.

10. To regulate the use of streets, alleys, avenues, sidewalks, cross-walks, parks and public grounds.

Obstructions.

11. To prevent and remove obstructions and encroachments upon the same.

Lighting and
sprinkling.

12. To provide for the lighting, sprinkling and cleansing of the same.

Water mains,
sewers, etc.

13. To regulate the opening therein for the laying of gas or water-mains and pipes, and the building and repairing of sewers, tunnels, drains, and erecting gas or electric lights; *Provided*, that any company heretofore organized under the general laws of this Territory, or any association of persons organized for the purpose of manufacturing illuminating gas, or electricity to supply cities, or the inhabitants thereof with the same, shall have the right by consent of the city council (subject to existing right) to erect gas or electric light works, and lay down pipes, or string wires on poles in the streets or alleys of any city in this Territory, subject to such regulations as such city may by ordinance impose.

Water works.

14. To construct and maintain water works, gas works, electric light works, street railways, or bath houses, or to authorize the construction and maintenance of the same by others, or to purchase any or all of said works from any person or corporation.

15. To construct or authorize the construction of water works without their limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution; their jurisdiction shall extend over the territory occupied by such works, and all reservoirs, streams, canals, ditches, pipes and drains used in, and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken, for ten miles above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect. Water works.

16. To control the water and water courses leading to the city and to regulate and control the water course and mill privileges within the city; *Provided*, That the control shall not be exercised to the injury of any rights already acquired by actual owners; and to levy and to collect taxes upon all taxable real and personal property, not to exceed one per cent. per annum, for the purpose of furnishing the city or the inhabitants thereof, with water for irrigation and other purposes, and to regulate and control the same for the use and benefit of the inhabitants thereof, and may assess, collect and enforce the payment of the taxes in any manner provided for by ordinance. Water; taxes.

17. To construct, purchase and maintain canals, ditches and reservoirs; and to purchase springs, streams, or sources of water supply for the purpose of providing water for irrigation, domestic or other purposes; and if necessary to secure said sources of water supply, may purchase the land upon which said water has been appropriated or applied. Canals, etc.

18. To make, contract with, and authorize any person, company, or association, to construct gas works, electric, or other light works in said city, and give such persons, company, or association the privilege of furnishing light for the public buildings, streets, sidewalks, and alleys of Light works.

said city, for any length of time not exceeding three years.

Gas; telegraph,
electric, tele-
phone poles,
etc.

19. To provide for the lighting of streets, laying down of gas pipes, and erection of lamp posts, and to regulate the sale and use of gas and electric, or other lights, the charge therefor, and the rent of gas meters within the city, and to regulate the inspection thereof, to prohibit, or regulate the erection of telegraph, telephone or electric wire poles in the public grounds, streets or alleys, and the placing of wires thereon, and to require the removal from the public grounds, streets or alleys, of any or all such poles, and the placing underground of any or all telegraph, telephone or electric wires.

Water tax.

20. To fix the rate of tax to be paid for the use of water furnished by the city, or any person or corporation.

Sidewalks.

21. To regulate the use of sidewalks and all structures thereunder and to require the owner or occupant or any person to keep the sidewalks in front of, or along the same, free from snow and all other obstructions.

Streets, etc.

22. To regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage, or any offensive matter in, and to prevent injury or obstruction to any street, avenue, alley, park or public ground.

Cross-walks.

23. To provide for and regulate cross-walks, curbs, and gutters.

Streets, etc.

24. To regulate or prevent the use of streets, sidewalks, public buildings and grounds, for signs, sign-posts, awnings, telegraph or telephone poles, horse troughs, racks, posting hand bills or advertisements.

Hand bills.

25. To regulate or prohibit the exhibition, or carrying of placards, or hand bills in the streets, public grounds, or upon the sidewalks.

Flags, etc.

26. To regulate or prevent the flying of flags, banners, or signs across the streets or from houses.

Sales.

27. To regulate or prohibit traffic and sales upon the streets, sidewalks, and public places.

28. To regulate the speed of horses and other animals, vehicles, cars, and locomotives Speed, etc. within the limits of the corporation; and to prevent horse-racing, immoderate driving or riding in the streets.

29. To regulate the numbering of houses Numbering, etc. and lots.

30. To name and change the name of any Names street, avenue, or other public place.

31. To permit, regulate or prohibit the locating, constructing, or laying the track of any railroad, or tramway, in any street, alley, or public place; but such permission shall not be for a longer time than twenty years. Tracks.

32. To provide for and change the location, Grade. grade and crossing of any railroad.

33. To require railroad companies to fence Fence. their respective railroads, or any portion of the same, and construct cattle guards, crossings of streets, and public roads, and keep the same in repair within the limits of the corporation.

34. To require railroad companies to keep Railroad companies. flagmen at railroad crossings of streets, and provide protection against injury to persons and property; to compel such companies to raise or lower their railroad tracks to conform to any grade which may at any time be established by such city, and where such tracks run lengthwise of any such street, alley or highway, to keep a railroad track on a level with the street surface so that such tracks may be crossed at any place on such street, alley, or highway; to compel and require railroad companies to make and keep open, and to keep in repair ditches, drains, sewers and culverts, along and under their railroad tracks, so that filthy or stagnant pools of water cannot stand on their grounds or right of way, and so that the natural or artificial drainage of adjacent property shall not be impeded.

35. To construct and keep in repair bridges, Bridges, etc. viaducts and tunnels, and to regulate the use thereof.

36. To construct and keep in repair cul- Sewers, etc.

verts, drains, sewers, catch basins, man holes and cesspools, and to regulate the use thereof.

Licenses and to whom.

37. To license, tax and regulate hawking, peddling, pawn-brokerage, employment agencies, the keeping of ordinaries, theatricals and other exhibitions, shows and amusements, and the business conducted by ticket scalpers, distillers, brewers, money-changers, brokers, keepers of public scales, runners for stages, cars, public houses, or other persons or things, and to revoke such license at pleasure; to license, tax and regulate banks, bath houses, livery stables, skating rinks, smelters, crushers, express companies, restaurants, hotels, taverns, theaters, opera houses, music halls, boarding houses, eating houses, chop houses, lodging houses, laundries, barber shops, second hand or junk stores, and to forbid the owners or person in charge of said stores from purchasing or receiving from minors without the written consent of their guardian, or parents, any article whatever; to license, tax and regulate the business conducted by hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, watermen, and all others pursuing like occupation, and to prescribe their compensation; merchants, retailers, shop and store-keepers, druggists, photographers, assayers, confectioners and fruit peddlers.

Billiards, etc.

38. To license, regulate and tax and suppress billiard, bagatelle, pigeon hole, or any other tables or implements kept or used for a similar purpose; also pin alleys, or tables or ball alleys.

Prostitution, etc.

39. To suppress and prohibit the keeping of bawdy and other disorderly houses, houses of ill fame, or assignation, or houses kept by, maintained for, or resorted to, or used by one or more females for lewdness or prostitution within the limits of the city, and within three miles of the outerboundaries thereof, and to prohibit the resorting thereto for any of the purposes aforesaid; and

Gaming, etc.

also to suppress and prohibit gambling and gambling houses, lotteries, and all fraudulent devices and practices, and all kinds of gaming, playing at

dice, cards, or other games of chance, and to prohibit the sale or exhibition of obscene or immoral publications, prints, pictures, or illustrations.

40. To license, regulate and tax the manufacturing, selling, giving away, or disposing of in any manner any intoxicating, malt, vinous, mixed or fermented liquor, the license not to extend beyond a municipal year in which it shall be granted, and to determine the amount to be paid for such license, and said license shall be subject to the same restrictions as required by the general laws of the Territory, and said council shall require of all persons applying for a license hereunder, a bond in good and sufficient security and with like conditions as required by the general laws of the Territory in this regard; *Provided*, That no other or further permit or license shall be required by the county in which such city is situated to enable such person or persons so licensed, to sell or deal therein within the limits of the corporation.

Liquor sale.
License.

41. To punish and prohibit the selling or giving away of any intoxicating, malt, vinous, mixed or fermented liquor to any minor, insane or idiotic person, habitual drunkard, or person intoxicated; and also to punish and prohibit the keeping or maintaining or becoming an inmate of or visiting or in any way contributing to the support of any place, house or room where opium is smoked or where persons assembled for the purpose of smoking opium or inhaling the fumes of opium or where opium is sold for such purpose.

Liquor, minors.

Opium.

42. To establish markets and market houses, and provide for the regulation and use thereof.

Market.

43. To provide for place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables, and all other provisions, and regulate the selling of the same.

Sales.

44. To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meal and all other provisions.

Inspection.

45. To regulate the inspection, weighing and measuring of lumber, fire wood, coal, hay.

Weighing, etc.

- Weights.** 46. To provide for the inspection of and sealing of weights and measures.
- Measures.** 47. To enforce the keeping of proper weights and measures by vendors.
- Regulate vaults** 48. To regulate the construction, repairs and use of vaults, cisterns, areas, hydrants, pumps, sewers, and gutters.
- Restrain fighting, etc., etc.** 49. To prevent intoxication, fighting, gambling, quarrelling, dog fights, cock fights, and all disorderly conduct, and provide against and prevent the offenses of assault and battery, and petit larceny; to restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house or place in the city, to regulate or prevent the discharge of fire arms, rockets, powder, fire works, or any other dangerous combustible material in the streets, lots, grounds, alleys, or about or in the vicinity of public buildings.
- Concealed weapons.** 50. To regulate and prohibit the carrying of concealed weapons.
- Vagrants.** 51. To arrest, fine, or set to work on the streets, or elsewhere, all vagrants, mendicants and persons found in said city without visible means of support or some legitimate business.
- Peace.** 52. To provide for the punishment of persons disturbing the peace and good order of the city, or any lawful assembly, by clamor, or noise, or by intoxication, fighting, or using obscene or profane language, or otherwise violating the public peace by indecent or disorderly conduct, or by lewd or lascivious behavior.
- Tramps, etc. Swindling.** 53. To provide for the punishment of tramps, common street beggars, common prostitutes, habitual disturbers of the peace, pickpockets, gamblers, thieves, persons who practice any game, trick, or device with intent to swindle.
- Fire limits, etc.** 54. To define the fire limits and prescribe limits within which no building shall be constructed, except brick, stone or other incombustible material, without permission, and to cause the destruction or removal of any building constructed or repaired in violation of any ordinance; and to cause all buildings and enclosures

which may be in a dangerous state to be put in a safe condition.

55. To prescribe the thickness, strength and manner of constructing stone, brick and other buildings, and construction of fire escapes therein; and to cause all buildings used for public purposes to be provided with sufficient and ample means of exit and entrance, and to be supplied with necessary and appropriate appliances for the extinguishment of fire and to prevent the overcrowding, and to regulate the placing and use of seats, chairs, benches, scenery, curtains, blinds, screens, or other appliances therein.

Construction of
houses

56. To prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stove-pipes, heaters, ovens, furnaces, boilers and apparatuses used in and about buildings and manufactories, and cause the same to be removed or placed in a safe condition, where considered dangerous.

Chimneys, etc.

57. To regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires, and to prevent the deposit of ashes in unsafe places.

Manufactories,
ashes.

58. To provide for the organization and support of a fire department, to procure fire engines, hooks, ladders, buckets, and other apparatuses, and to organize fire, engine, hook and ladder companies, and to prescribe rules, duties and government therein, with such penalty as the council may deem proper, and to make all necessary appropriation therefor, and to establish regulations for the prevention and extinguishment of fires.

Fire depart-
ment.

59. To regulate or prevent the storage of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, nitro-glycerine, petroleum, or any of the products thereof, and other combustible or explosive material, and the use of lights in stables, shops and other places, and the building of bonfires; also to regulate or restrain the use of fire works, fire crackers, torpedoes, roman-candles, sky-rockets, or other pyrotechnic displays.

Storage of
combustibles.

60. To provide for the inspection of steam
boilers.

61. To establish, erect and maintain, city
jails, houses of correction, and work houses for
the confinement of persons convicted of violat-
ing any city ordinance, and make rules and regu-
lations for the government of the same, and
appoint necessary jailors and keepers, and to use
the county jail for the confinement or punish-
ment of offenders, subject to such conditions as
are imposed by law, and with the consent of the
county court.

62. To prohibit cruelty to animals.

63. To declare what shall be a nuisance and
to abate the same, and impose fines upon parties
who may create, continue, or suffer nuisances to
exist.

64. To make regulations to secure the gener-
al health of the city, to prevent the introduction of
contagious, infectious or malignant diseases into
the city, and to make quarantine laws and en-
force the same within the corporate limits, and
within twelve miles thereof. To create a board
of health and prescribe the powers and duties of
the same.

65. To purchase, hold and pay for lands
within or without the corporate limits for the
burial of the dead, and all necessary ground for
hospitals, and to have and exercise police juris-
diction over the same, and over cemetery used by
said city, and to survey, map, plat, fence, ornament,
and otherwise improve all burial and cemetery
grounds; and to convey cemetery lots owned by
said city, and pass rules and ordinances for the
protection and governing of said grounds, and
for the governing of owners of lots therein and
visitors and trespassers.

66. To regulate the burial of the dead and
the registration of births and deaths; to direct
the returning and keeping of bills of mortality,
and to impose penalties on physicians, sextons
and others for default therein.

67. To regulate, or prohibit the running at

large within the limits of the city, horses, mules, asses, cattle, swine, sheep, goats, geese and all kinds of poultry; to establish a pound and appoint a pound-keeper, and prescribe his duties, and to distrain and impound animals running at large, and to provide for the sale of the same, in the same manner as provided for the sale of estrays and animals doing damage, by the laws of the Territory. The proceeds arising from the sale of such animals, after the payment of all costs, shall go to the city treasury.

Animals at large.

Sale, etc.

68. To license, tax, regulate or prohibit the keeping of dogs, and authorize the destruction of the same when at large contrary to ordinance.

Dogs.

69. To direct the location and regulate the management and construction of packing houses, tanneries, canneries, renderies, bone factories, slaughter houses, butcher shops, soap factories, founderies, breweries, distilleries, livery stables and blacksmith shops in, and within one mile of the limits of the corporation.

Tanneries, breweries, etc.

70. To prohibit any offensive or unwholesome business or establishment within one mile of the limits of the corporation, to compel the owner of any pig sty, privy, barn, corral, sewer, or other unwholesome or nauseous house or place, to cleanse, abate, or remove the same, and regulate the location thereof.

Pig sty, etc.

71. To provide for taking the census, but no census shall be taken oftener than once in five years, except as provided in Sec. 14, Article I of this Act.

Census.

72. To provide for the construction and care of all public buildings necessary for the use of the city.

Public buildings.

73. To prevent or regulate the rolling of hoops, playing of ball, flying of kites, riding of bicycles or tricycles, or any other amusement or practice having a tendency to annoy persons passing in the streets, or on sidewalks, or to frighten teams or horses.

Kites, ball, bicycles, etc.

74. To regulate, tax or prohibit the keeping of any lumber yard, and the placing or piling, or

Lumber yards.

selling any lumber, timber, wood, or other combustible material within the fire limits of the city.

Water works. 75. To purchase, construct, lease, rent, manage and maintain any system or part of system of water works, hydrants and supplies of water, telegraphic, fire signals, or fire apparatuses and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or constructed.

Public library. 76. To establish, maintain and regulate free public libraries and reading rooms, and to perpetuate such free libraries and reading rooms as may have been heretofore established in said cities.

Public processions. 77. To regulate or prohibit all public demonstrations and processions which interfere with public traffic.

Indigent dead. 78. To provide for the burial of indigent dead and to pay the expenses thereof.

Street tax. 79. To provide by ordinance for the annual levy and collection of a street tax assessed upon the property, real or personal, of the city; said tax not to exceed one half of one per cent, in any one year, and to be expended for the opening, widening, grading, paving and improving of the streets, sidewalks, avenues, and alleys of the city.

Poor children, education of. 80. To authorize the taking and providing for the safe keeping and education for such periods of time as may be expedient, of all children who are destitute of proper parental care.

Inspection of whisky. 81. To regulate the inspection of whisky and other liquors.

Butchers and sale of meats, etc. 82. To regulate, license the business conducted by butchers and revoke their license for mal-conduct in the course of trade, and regulate, license the selling of fresh meat and vegetables in the city, and to prohibit the forestalling of poultry, fruit, vegetables and eggs.

Collection of persons on street. 83. To prevent the ringing of bells, blowing of horns and bugles, crying of goods and other noises, performances, and devices tending to the collection of persons on the streets or sidewalks,

by auctioneers and others for the purpose of business, amusement or otherwise.

84. To compel persons to fasten animals attached to vehicles while standing or remaining in the streets. Animals to be fastened, when

85. To extend any street, alley, or highway, by condemnation or otherwise, over or across, or to construct any sewer under or through any railroad track, right of way or land of any railroad company within the corporate limits; but where no compensation is made to such railroad company the city shall restore such railroad track, right of way or land to its former condition, or in such manner as not to have impaired its usefulness. Condemnation.

86. To require all officers and agents elected or appointed in pursuance of this Act to give bond and security for the faithful performance of their duties, and to require from every officer of the city at any time to report in detail all the transactions in his office, or of any matters connected therewith. Official bond, etc.

87. To appoint police and watchmen and to define their powers and duties, and to remove all officers of the city for misconduct, and to provide for filling such vacancies as may occur in any elective office, and to create any office that may be deemed necessary for the good government of the city, to regulate and prescribe the powers, duties and compensation of all officers of the city not herein provided for. Police and other office.

88. To exercise the power of eminent domain and to take private property for public use, within or without the city, for the purposes and in the manner provided by law. Eminent domain.

89. To raise revenues by levying and collecting a license fee or tax on any private corporation or business within the limits of the city, and regulate the same by ordinance. All such license fees and taxes shall be uniform in respect to the class upon which they are imposed. License fee.

90. To pass all ordinances, rules, and make all regulations, not repugnant to the Constitution Ordinances.

and Laws of the United States, or the laws of this Territory, necessary for carrying into effect or discharging all powers and duties conferred by this act, and such as shall seem necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace, good order, comfort, convenience of the city and the inhabitants thereof, and for the protection of property therein, and to enforce obedience to such ordinances with such fines or penalties as the city council may deem proper; *Provided*, The fine or penalty shall be less than three hundred dollars, and the imprisonment shall not exceed six months for such offense.

Fine, etc.

ARTICLE V.

ACTIONS FOR VIOLATION OF ORDINANCES.

SECTION 1. All actions brought to recover any fines or to enforce any penalty under any ordinance of any city, shall be brought in the corporate name of the city as plaintiff, and any prosecution, recovery or acquittal for the violation of any ordinance shall not constitute defense to any other violation of any such ordinance; although the different cause of action at the same time, and which, if united, would not have exceeded the jurisdiction of the court or justice of the peace.

Actions.

SEC. 2. All fines and forfeitures for the violation of ordinances, when collected, and all moneys collected for licenses or otherwise, shall be paid into the treasury of the corporation at such times and in such manner as may be prescribed by ordinance.

Fines, licenses,
to whom paid.

SEC. 3. In all actions for the violation of any ordinance, it shall be sufficient if the complaint refer to the title and section of the ordinance under which such action is brought. Any person upon whom any fine or penalty shall be

Actions, suffi-
ciency of.

imposed may, upon the order of the court before whom the conviction is had, be committed to the county jail, city prison, workhouse, house of correction, or other places provided by the city for the incarceration of offenders, until such fine, penalty and costs, shall be fully paid. Commitment to jail, etc.

SEC. 4. The city council shall have power to provide by ordinance, that every person so committed shall be required to work for the corporation at such labor as his strength will permit, not exceeding ten hours each working day; and for such work the persons so employed, to be allowed one dollar for each day's work, on account of such fine and costs. Working out fine, etc.

SEC. 5. Any constable or sheriff of a county may serve any process or make any arrest authorized to be made by any city officer. Process; arrest.

ARTICLE VI.

OFFICERS, THEIR POWERS AND DUTIES.

SECTION 1. There shall be elected in all the cities of this Territory the following officers: in the cities of the first class, a mayor, elective at large, and three councilmen from each municipal ward; in cities of the second class, a mayor, elected at large, and two councilmen from each ward; in cities of the third class, a mayor and seven councilmen, elected at large; in addition, there shall be elected in all of said cities a recorder, treasurer, assessor and collector, marshal and in cities of the first and second class, a justice of the peace from each municipal ward; and cities of the third class, two justices of the peace, to be elected at large; *Provided*, that in the case of any incorporated city in which, at the time of the passage of this act, the members of the board of aldermen or council are elected from districts or wards, the provisions of this section shall not apply, nor shall this act, in any City officers, number and kind.

manner interfere with the existing qualifications of the electors or officers, or with the manner of selecting the officers.

Term.

SEC. 2. The elective officers of a city shall hold their respective offices for two years, and until their successors are elected and qualified.

City council to
appoint certain
officers.

SEC. 3. There shall be appointed by the council in cities of the first and second class a city attorney, surveyor, water master, sexton, supervisor of streets, auditor, and such other officers and agents, as may, by the city council be deemed necessary or expedient. And the council, in cities of the third class, may appoint any of said officers, or such officers and agents as may be deemed necessary.

Term.

SEC. 4. The appointive officers of the city shall hold their respective offices for two years, unless sooner removed by the city council.

Oath of office.

SEC. 5. Every person elected to an elective, judicial, or administrative office, shall, before he enters upon the duties thereof, take and subscribe an oath or affirmation that he will support the Constitution and laws of the United States, the laws of this Territory and the ordinances of _____ city, and that he will well and truly perform all the duties of his office to the best of his knowledge and ability; and file the same with the city recorder; and every such officer shall, before entering upon the duties of his office execute a bond with good and sufficient sureties, to be approved by the mayor, payable to the city, in such penal sum as may, by resolution or ordinance be directed, conditioned for the faithful performance of the duties of his office, and the payment of all moneys received by such officer, according to law and the ordinances of said city; *Provided*, that the bond of the mayor shall be approved by the city council; *Provided further*, that the treasurer's bond shall not be fixed at a sum less than the amount of the whole tax for the current year.

Official bond.

Amount of
bond.

SEC. 6. Whenever the inhabitants of any Territory incorporate under the act, the officers

first elected shall give bonds as mentioned in the preceding section, in the penal sum of not less than five hundred dollars, such bonds to remain in force until the passage of ordinances or resolutions by the council of such corporation providing for the giving of bonds by said officers.

SEC. 7. The city council may require bonds of all officers appointed by them; and may at any time require further and additional bonds of all officers elected and appointed.

Official bonds
and when
filed.

All bonds given by the officers of any city shall be filed with the recorder, except the bond of the recorder, which shall be filed with the treasurer.

SEC. 8. Every officer of the city shall, within five days after notification and request, deliver to his successor in office all properties, books and effects of every description in his possession belonging to the city, or appertaining to his said office; and upon his refusal to do so, shall be liable for all the damages caused thereby, and to such penalty as may be by ordinance prescribed.

Officer to turn
over property,
etc., to suc-
cessor.

SEC. 9. No person shall be eligible to any office who is not a qualified elector of the city, nor shall any person be eligible to any office who is a defaulter to the corporation.

Who not
eligible.

SEC. 10. No officer shall be directly or indirectly interested in any contract, work, or business of the city, or the selling of any article, the expense, price or consideration of which is paid from the treasury, or by any assessment levied by any act or ordinance, nor in the purchase of any real estate, or any other property belonging to the corporation, or which shall be held for the taxes or assessments, by virtue of legal process, at the suit of said corporation, mayor or other officer of the city.

Officer not to
be interested.

SEC. 11. In cities of the first and second class, no mayor, councilman, recorder or treasurer shall hold any other office under the city government during his term of office.

To hold only
one office.

SEC. 12. The mayor and councilmen of any city shall receive such compensation as the city

Salary and fees

council may by ordinance direct, but their compensation shall not be changed during their term of office; and all other officers may receive a salary, fee or other compensation, to be fixed by ordinance; and after the same has once been fixed, such fees or compensation shall not be increased or diminished to take effect during the term for which any such officer was elected or appointed.

ARTICLE VII.

CITY RECORDER.

Recorder.

SECTION. 1. The city recorder shall keep his office at the place of meeting of the city council, or some other place convenient thereto, as the council may direct. He shall keep the corporate seal and all papers and records of the city, and keep a record of the proceedings of the city council, whose meetings it shall be his duty to attend. Copies of all papers filed in his office and transcripts from all records of the city council, certified by him, under the corporate seal, shall be evidence in all courts, as if the original were produced. He shall draw and countersign all orders upon the treasurer in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose.

Recorder's
report.

SEC. 2. He shall report to the city council, on the first day of February and August of each year, the receipts and disbursements, and financial condition of the city, which report shall be published within thirty days thereafter, in a newspaper published within the city, if there be one, and if not, by posting said reports in three public places within the city. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rates of interest they respectively bear.

He shall countersign all contracts made in behalf of the city, and every contract made in behalf of the city or to which the city is a party, shall be void unless signed by the recorder.

He shall keep regular books of account, in which shall be entered, all indebtedness of the city, and shall at all times show the financial condition of the city, the amount of bonds, orders, certificates, or other evidences of indebtedness which have been redeemed. He shall keep account with all receiving and disbursing officers of the city; and shall examine all reports, books, papers, vouchers and accounts of the city treasurer, and shall perform such other duties as the city council may direct.

Book of
accounts, etc.,
to be kept by
recorder.

ARTICLE VIII.

CITY ATTORNEY.

SECTION 1. The city attorney shall perform all professional services incident to his office, and all such legal duties as may, by ordinance, be required of him; and when requested, shall furnish opinion upon any subject submitted to him by the city council or its committees.

City attorney.

ARTICLE IX.

CITY TREASURER.

SECTION 1. The city treasurer shall receive all moneys belonging to the city, including all taxes, licenses and fines, and keep an accurate and detailed account thereof, in such a manner as provided in this act, or as the city council from time to time by ordinance direct. He shall make a settlement with the recorder at the end of every month, and turn over all warrants, interest

Treasurer.

coupons, bonds or other evidence of the indebtedness of the city, which may have been redeemed by him during the month, taking the receipts of the recorder therefor, and all such warrants, orders, or other evidence of indebtedness shall be cancelled by him and have written or stamped thereon the date of their payment or redemption.

Payment of
money.

SEC. 2. He shall pay no money out except upon the warrant of the recorder, except bonds and interest coupons, which, when due, may be paid upon presentation, or in case the same is payable at some other place, then the money for their redemption shall be sent to the place where they are payable, in time to meet such payments when due.

Warrants,
how paid.

SEC. 3. All warrants shall be paid in the order in which they shall be presented, and the treasurer shall note upon the back of each warrant presented to him the date of such presentation, and when payment is made, the date of such payment; *Provided*, that any warrant shall be paid by the treasurer in case a sufficient amount of money shall remain in the treasury to pay all warrants issued previous to such warrant.

Receipts.

SEC. 4. The treasurer shall give every person paying money to the city treasury a receipt therefor, specifying the date of payment and upon what account paid; and he shall also file the duplicate of such receipt with the recorder at the date of his monthly report.

City money.

SEC. 5. The treasurer shall keep all moneys in his hands belonging to the city, separate and distinct from his own moneys, and is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his custody and keeping, for his own use and benefit, or that of any other person or persons whomsoever, and any violation of this provision shall subject him to immediate removal from his office by the mayor and city council, and upon conviction, they are hereby authorized to declare such

office vacant, and the city council shall appoint a successor for the term unexpired of the officer so removed. Removal of Treasurer.

SEC. 6. The treasurer shall report to the city council at such times as may be prescribed by ordinance, giving a full and detailed account of all receipts and expenditures since his last report, and the state of the treasury. He shall also keep a registry of all warrants redeemed and paid during the year, describing such warrants, their date, amount, number and fund from which paid, and the person to whom paid, specifying also the time of payment; and all such warrants shall be examined by the city council at the time of making such report. Treasurer's report.

SEC. 7. All moneys on any special assessment shall be held by the treasurer as a special fund, to be applied to the payment of the improvement for which the assessment was paid, and said money shall be used for no other purpose whatever. Money on special assessment

SEC. 8. The treasurer shall perform such other duties as may be prescribed by ordinance. Miscellaneous.

ARTICLE X.

COLLECTION OF TAXES AND DUTIES OF ASSESSOR AND COLLECTOR.

SECTION 1. The city council shall have power and it shall be their duty to regulate by ordinance the form of assessment rolls and prescribe the duties and define the powers of assessors and collectors, and to provide by ordinance for the assessment, levy and collection of all city taxes, general or special, which shall conform as nearly as the circumstances of the case may permit, to the provisions of the laws of this Territory in relation to the assessment, levy and collection of Territorial and county taxes, except as to the officers by whom such duties are to be Assessment and levy of taxes.

Assessor.

Taxes a lien.

Sale and
redemption.

performed. And the officers of said city engaged in the assessing and collecting of said taxes shall exercise all the powers conferred upon county assessors and collectors. All taxes assessed, together with any percentage imposed for delinquency, and the costs of collection, shall constitute liens on the property assessed from and after the 31st day of October in each year; which lien may be enforced by a summary sale of such property, and all necessary certificates and deeds may be executed and delivered for the transfer of such property; *Provided*, That any property sold for such taxes shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided by law for the redemption of property sold for Territorial or county taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this act shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds of property sold for non-payment of Territorial or county taxes.

Return of
assessment roll

SEC. 2. The city assessor and collector shall complete the assessment of the city and return his roll to the council on or before the first Monday of June of each year. On the return thereof the city council shall fix a day for hearing objections thereto.

Board of
equalization.

SEC. 3. The city council shall constitute a board of equalization, and shall meet at the time fixed as aforesaid, and may meet and adjourn from day to day until its work is completed. Said board shall equalize and correct said assessment roll, and may change the valuation of assessment of any real or personal property, by increasing or diminishing the assessed valuation thereof as shall be reasonable and just, to render taxation uniform. Such board shall proceed as near as may be in the same manner provided by law for the regulation of county board of equalization. During the session of said board, any person, or his agent, may apply to the board for

a correction of any alleged errors in the listing or valuation of his property.

SEC. 4. Said board of equalization is hereby authorized to administer oaths in the discharge ^{Same.} of official duties, and it may require property owners to give a statement to it of their taxable property and its value under oath, and it may summon such other persons to appear and testify before it as it may deem necessary to carry out the provisions of this act.

SEC. 5. The assessor and collector shall be furnished, within twenty days after the assessment rolls are corrected by the board, with a list ^{Taxes, when due and delin-} of the taxes to be collected; said taxes shall be due on the first day of September, and delinquent on and after the 31st day of October of each year, and said assessor and collector shall proceed to collect said taxes in the manner provided for the collection of Territorial and county taxes; the said rolls shall in all cases be evidence on the part of the corporation.

SEC. 6. The city council may prescribe further and other duties and regulations to govern ^{Taxes.} the assessor and collector, and provide by ordinance for the assessment and collection of taxes.

ARTICLE XI.

JUDICIAL POWER.

SECTION 1. The judicial power of the city shall be vested in the justices of the peace of ^{Judicial power.} such city. Said justices shall have exclusive original jurisdiction of cases arising under, or by reason of the violation of any ordinance or by-law of said city, and shall have the same jurisdiction as other justices of the peace in cases arising under the laws of the Territory. The rules of practice and mode of proceeding in said justices court shall be the same as are or may be prescribed by law for justices courts in like cases.

Appeals.

From all final judgments of said justices court, whether civil or for violation of any ordinance of said city, an appeal shall be allowed to either party against whom the judgment is rendered, to the district or other appellate court provided by law, in the same manner, and upon the same terms as provided by law for appeals from justices courts in similar cases.

Place of trial.

SEC. 2. Nothing in this act shall be construed to require any of such justices to confine his place of holding his court or hearing or determining causes triable before such justice to the municipal ward from which he is or may be elected.

ARTICLE XII.

Surveyor.

SECTION. 1. The city surveyor shall perform all such duties as may, by ordinance be required.

ARTICLE XIII.

DUTIES OF MARSHAL AND POLICE.

Marshal and
police

SECTION 1. The marshal shall be ex-officio chief of police. He shall, under the direction of the council, direct and control the police of the city and, when ever the interests of the city demand, by and with consent of the Mayor, appoint such members of special police as may be required. He shall attend the sitting of the city council and perform such duties as may by ordinance be prescribed. He shall have in the discharge of his duties, like powers and be subject to like responsibility as sheriffs and constables in similar cases; and he shall, by himself or deputy, execute and return all processes directed to him, suppress riots, disturbances, breaches of the peace, apprehend all persons committing any offence against the laws of the Territory or the ordinances of the city. And at all times he shall

diligently and faithfully discharge his duties and enforce all ordinances and regulations of the city for the preservation of peace and good order and the protection of the rights and property of all persons.

SEC. 2. All warrants issued by the city justice for the violation of any general law of this Territory or ordinance of this city shall run to the sheriff or any constable of the county, or to the marshal or any policeman of the city. ^{Warrants shall run.}

SEC. 3. All police officers of any city shall possess the powers of constables by the laws of this Territory; and any warrant for search or arrest issued by any justice of the peace of this Territory may be executed in any part thereof by any police officer. They shall execute and serve all warrants, process, commitments, and all writs whatsoever issued by the city justices of the peace. It shall be the duty of the police force in any city at all times to preserve the public peace, prevent crime, detect and arrest offenders, suppress riots, protect persons and property, remove nuisances existing in the public streets, roads and highways, enforce every law relating to the suppression of all offences, and perform all duties enjoined upon them by ordinance of the city council. ^{Police officers' powers.}

SEC. 4. The several members of the police force shall have power and authority without process, to arrest and take into custody any person who shall commit or threaten to attempt to commit in the presence of such member, or within his view any breach of the peace or any offence directly prohibited by the laws of this Territory or by any ordinance of this city. ^{Arrest.}

ARTICLE XIV.

FINANCES.

SECTION 1. The fiscal year of each city organized under this act shall commence on the first day of February of each year. ^{Fiscal year.}

Levy assess-
ment.

SEC. 2. At the regular meeting of the city council in the month of June of each year, said council shall, by ordinance or resolution, levy on the assessed value of all real and personal property within the city made taxable by the laws of the Territory:

1st. Not to exceed five mills on the dollar to defray the contingent expenses of the city;

Amount.

2nd. And said council shall have power to annually levy and collect, at such times as they may determine by ordinance or resolution, on all of said taxable property, not to exceed ten mills on the dollar, to purchase water sources, streams and land upon which said streams are appropriated, canals, construct water works and supply water for irrigation and other purposes; *Provided*, an acreage tax may be assessed in lieu of said tax whenever the council may deem said tax just;

Same.

3rd. Not to exceed five mills on the dollar to open, improve and keep in repair the streets and sidewalks of the city;

Same.

4th. Not to exceed five mills on the dollar to construct and keep in repair sewers and drains;

Same.

5th. And to levy and collect local assessments, as herein provided; to construct and keep in repair sidewalks, sewers, drains and streets and supply the city or inhabitants thereof with water and with gas and other means of illumination.

ARTICLE XV.

LOCAL ASSESSMENTS.

Division of
city into sewer-
age districts,
etc.

SECTION 1. The city council are authorized and empowered to divide the city into districts for sewerage, paving, or other like purposes, and to provide by ordinance a system of doing any or all work in and upon streets, highways, sidewalks and other public places of such city, or for making therein street improvements and repairs,

and for constructing sewers, drains, water works, and laying of pipes and mains for water and gas; and for the payment of the costs and expenses thereof said council shall have power by ordinance to determine the form and mode of local assessments, and levy and collect local taxes in proportion to benefits upon the property within said districts, or may levy and collect such annual general tax, if such there be, for the particular work to be carried on, as provided in subdivisions 2, 3 and 4 of Section 2, Article 14 of this act, or may draw upon the contingent or general fund of the city, provided for in subdivision 1 of Section 2, Article 14 of this act, or may use either or all of said taxes when such use would be just. Local taxes levied for the purpose of paying the costs of constructing sewers or drains within the city, may be levied upon the real estate lying and being within the sewerage district in which such sewer or drain may be situated to the extent of benefits to such property by reason of such improvements, the benefits to such property to be determined by said council sitting as a board of equalization, after notice given as hereinafter provided, or according to the front feet of the lots or real estate within such district, or according to such other rule as the council may adopt for the contribution or adjustment of such costs.

Levy taxes.

Local taxes,
sewers, etc.

Local taxes levied for the purpose of grading, widening, opening, extending, paving or repairing in any manner, streets or sidewalks, or for the laying of water or gas pipes, shall be levied upon the lots or pieces of ground adjacent to or abutting upon said street or sidewalks, or in such other manner as the council sitting as a board of equalization may determine to be just; *Provided*, that this provision shall not apply to ordinary repairs of streets or sidewalks, and one-half of the expense of bringing streets, alleys or sidewalks to the established grade shall be paid out of the street or contingent fund; *Provided further*, that in all cases where the expense of any

Local taxes, etc

of said improvements mentioned in this section is to be defrayed, either in whole or in part, by local assessment, the council shall give notice of such intention, which notice shall be published at least twenty days in a newspaper published within such city. Such notice shall describe the improvements so proposed, the boundaries of the district to be effected or benefitted by such improvement, the estimated cost of such improvement, and designate the time set for such hearing. If at or before the time so fixed written objections to such improvements, signed by the owners of one-half in value of the property so to be effected or benefitted, as shown by the last preceding city assessment roll, be not filed with the recorder, the council shall be deemed to have acquired jurisdiction to order the making of such improvements. Any such special assessment made and levied to defray the cost and expenses of any such work, and the costs of collection, shall constitute a lien upon and against the property upon which such is made and levied, from and after the date of the order for such assessment, and said assessment shall be collected in like manner as other city taxes.

Lien of taxes.

ARTICLE XVI.

ELECTIONS.

Elections.

SECTION 1. The election in all cities hereafter organized under this act for the municipal officers provided for in Section 1, Article 6 of this act, shall be held on the second Monday in February, 1889, and biennially thereafter, and upon the election and qualification of said officers, they shall immediately enter upon the duties of their respective offices; and all offices in cities or towns incorporated under this act, upon the election and qualification of said officers, are hereby declared vacant and abolished.

SEC. 2. All elections held in cities organized under this act shall be conducted in accordance ^{Electors.} with the general election law of the Territory, so far as the same may be applicable; and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, duly registered, and shall have resided in such city for at least six months next proceeding such election; and every legal qualified voter, residing within the limits of said city, shall be entitled to vote at the polls within the ward where he resides.

ARTICLE XVII.

HOW CORPORATE LIMITS MAY BE EXTENDED.

SECTION 1. Any city now existing in this Territory that shall become incorporated under this act, may extend its corporate limits in the manner hereinafter provided.

SEC. 2. The boundaries of any municipal corporation may be altered and new territory included therein after proceedings had as required in this section. ^{Boundaries.} The council of such corporation shall, upon receiving a petition therefor, signed by not less than two-fifths of the property owners thereof, submit to the electors of such corporation, and of the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such territory shall be annexed to such corporation, and become a part thereof. Such question shall be submitted at the next general municipal election, and such council shall give notice thereof by publication in a newspaper published in such corporation, for a period of four weeks prior to such election; but if no newspaper be published therein, then by posting notices for at least four weeks in at least four public places within said city, and four public places in said territory proposed to be annexed. Such notices shall distinctly state the proposition

Annexation.

to be so submitted, and shall designate specifically, the boundaries of the territory so proposed to be annexed. And the electors shall be notified thereby to vote upon such proposition by placing upon their ballot the words "For Annexation" or "Against Annexation." Such city council shall also designate the place or places at which the poll will be opened in such territory so proposed to be annexed, which place or places shall be that or those used for general election purposes within such territory, if such there be. The election shall be conducted, the vote canvassed, and returns made in the manner prescribed by law. The votes cast in such territory so proposed to be annexed shall be canvassed separately, and if it shall show upon such canvass that the majority of all the votes cast in such territory, and a majority of the votes cast in such corporation, shall be for annexation, such council shall order to be entered upon their minutes and make a certified abstract of such vote, which abstract shall show the whole number of electors voting in such territory and the number voting in such corporation, the number of votes cast in each for annexation, and the number of votes cast in each against annexation.

Abstract votes.

Election returns to be filed with Secretary Territory.

It shall be the duty of the person or persons to whom returns of said election are made to file with the secretary of the Territory, the information contained in said certificate. From and after the day of the filing of said abstract such annexation shall be deemed complete and thereafter such territory shall be and remain a part of such corporation.

Plat of city, when filed.

SEC. 3. The mayor of any city incorporated under this act, shall cause to be filed in the office of the county recorder in the county wherein said city is located, a plat showing the corporate limits and boundaries of his city at the time of its incorporation under this act; and any change in said city limits made subsequent to its incorporation under this act.

ARTICLE XVIII.

RESTRICTION OF CORPORATE LIMITS.

SECTION 1. Any city now existing in this Territory may restrict its corporate limits in the following manner: On petition in writing, signed by not less than three-fourths of the electors residing within the territory desired to be detached, and not less than one-fourth of the remaining electors in said city, to the city council thereof. It shall be the duty of said council to submit the question to the electors of such city at the next municipal election, and to give notice in the same manner and for the same time as provided in Section 2, Article XVII of this Act; *Provided*, that no territory shall be detached, nor shall any election be ordered when such territory does not lie upon the border of said city limits, or is laid out into city lots or blocks.

Restriction of
city limits.

SEC. 2. Such notices shall distinctly state the proposition to be submitted, and shall designate specifically the boundaries of the territory proposed to be detached, and the electors shall be notified to vote upon such question by placing upon ballots the words "For Detachment" or "Against Detachment." If a majority of all the votes cast in said city shall be "for detachment" the city council shall cause to be entered upon their minutes a true copy of the returns of said election, showing the number of votes cast for and against the question.

Detachment.

SEC. 3. It shall be the duty of the mayor of said city to have recorded in the county records, an accurate map of the territory so detached, and the city as restricted in its limits, and he shall also make publication at least four times in some newspaper having general circulation in the county, of the result of such election, and designate the territory so detached. Upon making the proper entries and filing with the recorder the affidavit of publication, the detachment of

When and how
detachment
effected.

such territory shall be deemed complete, and said territory shall be no longer subject to the jurisdiction of said city.

ARTICLE XIX.

HOW CITIES MAY DISINCORPORATE.

Disincorporation, how effected.

SECTION 1. On petition in writing, signed by not less than one-half of the electors of any city, as shown by the registration list of the preceding year, to the city council of any city, praying for the disincorporation of said city, it shall be the duty of said council to submit such question to the electors of said city at the next general municipal election, and to give notice thereof by publication in a newspaper published in said city at least once a week for a period of four successive weeks prior to such election, or if no paper be published therein, then by posting notices for at least four weeks prior to said election, in eight or more public places in said city; *Provided*, that the question of disincorporating the city shall not be submitted at any election unless the obligations and liabilities of such city have been fully met and provided for. Such notices shall distinctly state the proposition to be voted for, the time and place of the election, and the electors shall be notified thereby to vote upon such proposition by placing upon their ballots the words "For Disincorporation" or "Against Disincorporation." The election shall be conducted, the votes canvassed and the returns made in the same manner as provided by law.

Disincorporation.

SEC. 2. If three-fourths of the votes cast at such election shall be for "disincorporation" the corporate existence of such city shall be ended, and the officers elected shall not qualify, and the terms of incumbent officers shall be deemed to have expired.

SEC. 3. The retiring officers of such disincorporated city shall deposit with the treasurer of the county in which said city is situated, all the records, books, maps, and other personal property belonging to said city, and all moneys, accounts, notes and other property, both real and personal, belonging thereto, shall revert to and rest in said county; and said county is hereby empowered to sue in its own name for the collection of all accounts and the enforcement of any claim of said city, and to use the property so vesting as all other property belonging to said county.

Effect of disincorporation.

SEC. 4. Whenever any city is disincorporated as herein provided, it shall be the duty of the retiring mayor of such city to have recorded a copy of said petition, the order of the city council in submitting the proposition to the electors, a certified copy of said notices and the number of votes cast for and against disincorporation, by the county recorder of the county in which such city is situated, and he shall further make publication of such disincorporation, by publishing for at least four successive weeks in some newspaper having general circulation within the Territory.

Duty of mayor

ARTICLE XX.

MISCELLANEOUS.

SECTION. 1. When by this act the power is conferred upon the city council to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the city council may provide by ordinance the manner and details necessary for the full exercise of such power.

Miscellaneous power of council.

SEC. 2. The duties, powers, and privileges of all officers in any way connected with the city

Defining of duties.

government not herein defined, and the defining by this act of the duties of city officers, shall not preclude the city council from defining by ordinance further and additional duties to be performed by any such officer.

Ordinances,
fines, etc.

SEC. 3. The city council may pass all ordinances necessary to carry into effect any of the powers herein granted, and may prescribe punishments for any violation of the same; *Provided*, That such punishments be by fine in any sum less than three hundred dollars or by imprisonment not exceeding six months. or both.

Fines, etc.,
where paid.

SEC. 4. All fines, penalties and forfeitures collected for offenses against the ordinances of the city shall be paid into the city treasury.

SEC. 5. Article 4, Sec. 3 of Article 5, Secs. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, and 12 of Article 6, Sec. 4 of Article 10, Article 11, Subdivisions 2, 3, 4, and five of Sec. 2 of Article 14, Article 15, Articles 17, 18, 19, and Secs. 1, 2, and 3 of Article 20, of this Act are hereby made applicable to all incorporated cities now organized in this Territory and shall be construed to be cumulative and supplemental to the charters of said cities.

SEC. 6. This Act shall take effect from and after its passage and approval.

Approved March 8, 1888.

CHAPTER XLIX.

AN ACT Defining the Duties of County Recorder.

Section.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That at the next general election in August, A. D. 1888, and biennially thereafter, there shall be elected in each county of this Territory, a county recorder, whose term of office shall be for two (2) years and until his successor is elected and qualified.

Qualification.

SEC. 2. The recorders in their respective counties in this Territory, before entering upon

the duties of their offices, shall take the oath of office, and shall enter into bonds in the penal sum of not less than five nor more than twenty thousand dollars, in the discretion of the county court, with two or more sureties, to be approved by said county court, conditioned for the faithful performance of their duties, and to deliver up all papers, books, records and other things appertaining to their offices, whole, safe and undefaced, when lawfully required so to do. Every bond shall be in form joint and several, and made payable to the Territory of Utah; and shall be in force and obligatory upon the principal therein, to and for the said Territory and to and for the benefit of all persons who may be injured or aggrieved by the wrongful act, neglect or default of the recorder in the performance or non-performance of any of the duties imposed upon him by law, and any person so injured or aggrieved, may bring suit on such bond in his or her name without an assignment thereof. Every such bond shall be deemed to be in force and obligatory upon the principal and sureties therein, for the faithful discharge of all duties which may be required of such recorder by any law enacted subsequently to the execution of such bond, and such condition shall be expressed therein.

Bond.

SEC. 3. Each recorder may appoint one or more deputies; the appointment shall be in writing and entered upon the records of his office. Each deputy shall, before entering upon the duties of his office, take and subscribe the oath of office in like form as is required of the recorder, which shall be filed in the office of the county clerk of his county.

Deputy
Recorder

SEC. 4. Deputy recorders, duly appointed and qualified, may perform any and all duties of the recorder in the name of the recorder, and the acts of such deputies shall be held to be the acts of the recorder, and in case of the death of the recorder, or his deposition from office, the chief deputy shall thereupon become the acting recorder until such vacancy shall be filled ac-

Vacancy.

ording to law, and he shall file a like bond and be vested with the same powers, and be subject to the same responsibilities and entitled to the same compensation as in the case of the recorder. The recorder shall be liable for any neglect or omission of the duties of his office when occasioned by a deputy, in the same manner as for his own personal neglect or omission. The recorder and his deputy shall have authority to administer oaths and affirmations in all matters of conveyance of real or personal property.

Instruments,
how recorded.

SEC. 5. Every recorder shall, as soon as practicable after the filing of any instrument of writing in his office entitled to be recorded, record the same at length in the order of time of its reception, in well bound books, to be provided for that purpose; *Provided*, that separate books shall be kept for the recording of different classes of instruments. On the filing of any instrument in writing for record in a recorder's office, the recorder shall, when requested, give to the person leaving the same to be recorded, a receipt therefor.

Receipts.

Filing of in-
struments and
indorsements,
notice, etc.

SEC. 6. When any instrument in writing is filed in the recorder's office, the recorder shall endorse upon such instrument a certificate of the time, including the hour of the day, when the same was filed for record, which shall be considered the time of recording the same, and when said instrument is recorded, the book and page in which the same is recorded, which certificate shall be signed by the recorder, and shall be prima facie evidence of the facts therein stated.

SEC. 7. Every recorder shall keep the following books:

Entry book.

1. An "entry book," in which he shall immediately upon the receipt of any instrument to be recorded, enter in the order of its reception, the names of the parties thereto, its date, the day of the month, hour and year of filing the same, and a brief description of the premises, endorsing upon each instrument a number corresponding with the number of such entry.

2. A "grantor's index," in which shall be entered the name of each grantor, in alphabetical order, the name of the grantee, date of the instrument, time of filing, kind of instrument, consideration, the book and page in which it is recorded, and a brief description of the premises.

Grantor's
index.

3. A "grantee's index," in which shall be entered the name of each grantee in alphabetical order, the name of the grantor, date of the instrument, time of filing, kind of instrument, consideration, the book and page in which it is recorded and a brief description of the premises.

Grantee's
index.

4. An "index to each book of record," in which shall be entered in alphabetical order the name of each grantor and grantee, and the page in which the instrument is recorded, and whenever any lien, deed of trust, mortgage or other instrument has been released or discharged from record, whether by written release upon the margin of the record or by recording a deed of release, the recorder shall immediately note in the general index that such instrument has been satisfied.

Index to each
book.

Releases, etc.

5. An "abstract book," which shall show by tracts, every conveyance or incumbrance recorded, the date and character of the instrument, time of filing the same, the book and page where the same is recorded, which book shall be so kept as to show a true chain of title to each tract and the incumbrances thereon, as shown by the records of his office.

Abstract book.

6. An "index to recorded maps, plats and subdivisions," such index to be made by description of land mapped, or subdivided by range, township, section, quarter section or other legal subdivision.

Index, maps,
etc.

SEC. 8. It shall be unlawful for any recorder to record any map, plat, or subdivision of land, situated in any city, town or village, until the same shall have been approved by the legislative authority of the city, town or village in which such land may be situated, or by some city, town or village officer for that purpose to be designated by resolution or ordinance of said legislative

Unlawful to
record maps,
when.

authority, and in the absence of said legislative authority, by the probate judge of the county in which the town or village is situated, except the said map, plat or subdivision be attached to or form a part of a conveyance and relates to the property or some part thereof embraced in said conveyance. For each and every violation of this section by any recorder, his deputy, or

Forfeit.

SEC. 9. Deeds and other instruments affecting real estate made by a marshal, sheriff, master in chancery, special commissioner, executor, administrator, guardian, trustee or other person acting in behalf of another, shall be indexed in the name of the person whose land is sold or affected as grantor, and a note shall be made in the index, indicating in what capacity the deed was made.

Deeds, how indexed.

SEC. 10. If any recorder shall fail to perform any duty imposed upon him by this act, he shall be liable to the party injured for all damages occasioned thereby.

Failure of duty liability for.

SEC. 11. The county court of each county shall, from time to time, as may be necessary, provide the recorder of such county with well bound books, properly ruled, necessary to the execution of the duties of his office. They may procure books of printed form to be filled up in the recording of any instrument, when the same may be done without interlineation or erasure, and shall in all cases, when practicable, procure the necessary index and abstract book with printed headings. The cost of such books shall be paid by the county.

Books, how furnished.

SEC. 12. When it shall appear to the county court that any books of record, entry books, indexes, or abstract books are likely to become useless from age or much use, or are illegibly written, defaced or imperfectly kept, they shall cause the same to be transcribed at the cost of the county.

Re-transcribe.

SEC. 13. When abstract books have not been kept in any county, up to the time of taking effect of this act, the county court shall procure such abstract books, to be made in the form prescribed in this act, at the cost of the county, showing a complete chain of title and encumbrance up to the time of the taking effect of this act.

Abstract books

SEC. 14. All persons interested in titles shall, during proper business hours, have free access to the records in the custody of county recorders, and may examine the same and take notes therefrom in pencil for the purpose of making abstract of the title of any piece of property.

Interested persons may examine, etc.

SEC. 15. The recorder may, at his option, upon the application of any person, and upon the payment or tender of the fee therefor, make searches for conveyances, mortgages, and all other instruments, papers or notices recorded or filed in his office, affecting the title to any piece of property, and furnish a certified abstract thereof. If any recorder refuses to make the abstract or to give the certificate provided for by this section, after he has consented so to do, or if such abstract or certificate is incomplete, erroneous or defective in any important particular effecting the property in respect to which the abstract is required, he is liable to the party aggrieved for the amount of the actual damage sustained; *Provided*, however, such liability shall not accrue in favor of any person who had actual notice of the error or mistake complained of.

Abstract of title by recorder

Liability.

SEC. 16. Every person desiring to open and conduct an abstract business, before so doing shall make application to the county court of the county in which he purposes conducting said business; said court shall, if they deem said applicant a proper and competent person, issue a license authorizing said applicant, during all reasonable business hours, to have access to said records; *Provided*, Such license shall not issue until said applicant shall file a bond, with ap-

Abstract business, license etc.

proved sureties, in the penal sum of not less than five thousand nor more than twenty thousand dollars, conditioned for the faithful abstracting of said records, and the issuing of correct abstracts of titles. Said bond shall also provide that the said person, his agent or employee, shall be held liable for any mutilation of the records in his possession.

Liability.

SEC. 17. Every person conducting said abstract business shall be liable to the same penalties for mistakes and errors in abstracts as county recorders.

SEC. 18. That an ordinance in relation to county recorders, approved March 2, 1850, and Sec. 1, 4 and 5 of "An Act in Relation to County Recorders, and the Acknowledgement of Instruments of Writing," approved January 19, 1885, are hereby repealed.

Approved March 8, 1888.

CHAPTER L.

COUNTY GOVERNMENTS.

AN ACT to Establish a Uniform System of County Governments.

Counties as now organized or may be created are bodies politic.

Bodies politics.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That the several counties of this Territory, as they now exist, and such other counties as may be hereafter organized according to law, are bodies corporate and politic, and as such have the powers specified in this act, and such other powers as are necessarily implied.

POWERS, HOW EXERCISED.

Powers.

SEC. 2. The powers of a county can only be exercised by the county court, or by agents and officers acting under its authority, or authority of law.

NAME.

SEC. 3. The name of a county designated in the law creating it is its corporate name, and it must be designated thereby in all actions and proceedings touching its corporate rights, property and duties. Name.

POWERS.

SEC. 4. It has power:

1. To sue and be sued.
2. To purchase and hold land within its limits necessary and proper for county purposes. Powers.
3. To make such contracts, and purchase and hold such personal property as may be necessary to the exercise of its powers.
4. To manage and dispose of its property as the interests of its inhabitants may require.
5. To levy and collect such taxes, for purposes under its exclusive jurisdiction, as are authorized by law.

RESTRICTIONS.

SEC. 5. No county shall in any manner give or loan its credit to, or in aid of, any person or corporation. No county shall incur any indebtedness or liability in any manner, or for any purpose, to an amount exceeding in any year the total amount of its income and revenue for the two fiscal years immediately preceding the incurring of such indebtedness. Any indebtedness or liability incurred contrary to this provision shall be void. Restrictions.

CERTAIN CONTRACTS VOID.

SEC. 6. All contracts, authorizations, allowances, payments and liabilities to pay, made or attempted to be made, in violation of this act, shall be absolutely void, and shall never be the foundation of a claim against such county. Void contracts.

PENALTY FOR ALLOWING CERTAIN CLAIMS.

SEC. 7. Any probate judge or selectman or

Penalty.

any other officer, who knowingly authorizes, or aids to authorize, or audits, or allows any claim or demand upon or against the county, or any fund thereof, in violation of any of the provisions of this act, shall be liable in person and upon their several official bonds, to any person damaged by such illegal authorization, to the extent of his loss.

COUNTY SEATS.

County seats.

SEC. 8. The county seats of the respective counties of this Territory, as now fixed by law, are hereby recognized as, and declared to be, the county seats of the respective counties, and may be removed as provided by law.

Selectmen and election.

SEC. 9. At the general election to be held in the year 1888, and biennially thereafter, one selectman shall be elected in each county of this Territory, whose term of office shall be two years and until his successor shall be elected or appointed and qualified, and at the general election to be held in the year 1889, and biennially thereafter, two selectmen shall be elected in each county of this Territory, whose terms of office shall be two years and until their successors shall be elected or appointed and qualified; *Provided*, that the probate judges and selectmen now holding office in the several counties of this Territory shall continue in office, and exercise all the powers conferred by this act upon the county courts, until the terms of office for which they were elected shall expire, and their successors shall be elected or appointed and qualified; except the selectmen whose terms of office would expire at the general election in the year 1890, and their terms of office are hereby shortened and shall expire at the general election to be held in the year 1889.

COUNTY COURTS.

County court.

SEC. 10. Each county shall have a county court, consisting of the probate judge of such county and three selectmen.

QUALIFICATIONS.

SEC. 11. Each member of the county court must be an elector of the county for which he is elected or appointed, and must have been such for at least one year immediately preceding his election. Qualification.

VACANCY, HOW FILLED.

SEC. 12. Whenever a vacancy occurs in the office of selectman, the county court shall fill the vacancy by appointment, the appointee to hold office for the unexpired term. In case there should not be a majority of such court remaining in office, then the proper election officers who have charge of the conduct and management of county elections in any such county, shall forthwith order a special election to fill vacancies; and the persons so elected shall enter upon the duties of their office immediately upon their election and qualification, and shall hold office for the unexpired term. Vacancy.

CHAIRMAN.

SEC. 13. The probate judge shall, if present, preside at all meetings of the county court, and in case of his absence or inability to act, the members present must select one of their number to preside temporarily. Chairman.

Any member of the court may administer oaths to any person when necessary in the performance of their official duties. Oaths.

A majority of the members shall constitute a quorum for the transaction of business; but no act of the court shall be valid or binding unless a majority of the members concur therein. Quorum.

CLERK OF THE COUNTY COURT.

SEC. 14. The clerk of the court must:

1. Record all the proceedings of the court.
 2. Make full entries of all their resolutions and decisions or questions concerning the raising of money for, and the allowance of accounts against the county.
- Clerk of court, his duties.

3. Record the vote of each member on any question upon which there is a division, or at the request of any member present.

4. Immediately after the adjournment of each meeting of the court, prepare and certify duplicate lists of all claims allowed and orders made for the payment of money, giving the name of the claimant or payee named in the claim or order, the amount and date of each claim or order, and the date of the allowance thereof, which said lists shall be countersigned by the probate judge, and thereafter said clerk shall deliver to and leave with the treasurer one of said lists, and return and file in his office the other list.

5. Keep an accurate account of all receipts and expenditures of his county, also of all debts payable to and by said county.

At the first session of the court held in each year the clerk shall submit to the said court a statement showing the total amount received from each source of revenue during the fiscal year ending on the thirty-first day of December last preceding, the balance, if any, in the treasury at the close of the previous fiscal year; the expenditures during the fiscal year just closed, specifying separately the total amount paid to each officer and the total amount for each and every disbursement, the balance on hand, if any, together with a statement of all the debts payable to and by said county.

He shall, within thirty days after the auditing of such statement by the court, transmit a certified copy thereof to the auditor of public accounts, to be filed by him and furnished to the legislative assembly during the first two weeks of the next succeeding session.

He shall also file and preserve the reports of the county treasurer of the receipts and disbursements of the county.

6. Preserve and file all accounts acted upon by the court.

7. Preserve and file all petitions and applications and record the action of the court therein.

8. Authenticate with his signature and seal of the court the proceedings of the court whenever the same shall be ordered published.

9. Record all orders levying taxes; and

10. Perform all other duties required by law, or any rule or order of the court.

DUTY OF THE COURT.

SEC. 15. The court must cause to be kept:

1. A minute book, in which must be recorded all orders and decisions made by them, and the daily proceedings had at all regular and special meetings. Duty of the court.

2. An allowance book, in which must be recorded all orders for the allowance of money from the county treasury, to whom made, and on what account, dating, numbering, and indexing the same through each year.

3. A road book, containing all proceedings and adjudications relating to the establishment, maintenance, change and discontinuance of roads and road districts.

4. A warrant book, to be kept by the clerk, in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number and reference to the order on the minute book, with the date, amount, on what account, and name of payee.

REGULAR MEETINGS.

SEC. 16. The county court must be held at their respective county seats on the first Monday in March, June, September and December in each year, and oftener, if they deem it necessary. Regular meetings.

SPECIAL MEETINGS.

SEC. 17. If at any time the business of the county requires a meeting of the court, a special meeting may be ordered by the probate judge or by a majority of the court. The order must be Special meetings

signed by the probate judge or by the selectman calling such meeting, and must be entered in the minutes of the court. Five days notice of such meeting must be given by the clerk to the members not joining in the order. The order must specify the business to be transacted at such special meeting, and none other than that specified must be transacted at such special meeting.

ALL MEETINGS MUST BE PUBLIC.

Public
meetings.

SEC. 18. All meetings of the court must be public and the books, records and accounts must be kept at the office of the clerk, open at all times during business hours for public inspection, free of charge.

GENERAL PERMANENT POWERS OF COURT.

POWERS.

SEC. 19. The county courts in their respective counties have jurisdiction and power under such limitations and restrictions as are prescribed by law.

SUPERVISE CONDUCT OF OFFICERS.

Powers of
the court.

1. To direct prosecutions for delinquencies.
2. To supervise the official conduct of all county officers and officers of all districts and other subdivisions of the county, except municipal corporations charged with the assessing, collecting, safe keeping, management or disbursement of the public revenues; see that

They faithfully perform their duties, and when necessary require them to renew their official bonds, to make reports and to present their books and accounts for inspection.

DIVIDE COUNTY.

County
districts.

3. To divide the counties into school, road and other districts required by law, change the same and create others as convenience requires.

ELECTION PRECINCTS, ETC.

4. To establish, abolish and change county election precincts, but no such precinct shall be established or abolished, or the boundaries of any precinct changed within thirty days prior to any election. Precinct.

PUBLIC ROADS.

5. To lay out, maintain, control and manage public roads, turnpikes, ferries and bridges within the county. Roads.

INDIGENT SICK AND POOR.

6. To provide for the care and maintenance of the indigent sick or the otherwise dependent poor, transients and residents of the county; erect, officer and maintain hospitals and poor houses, in their discretion therefor, or otherwise provide for the same; and for such purposes, annually, at the time appointed by law for the levying of taxes for county purposes, to levy the necessary property tax therefor; *Provided*, the county court shall appoint (not let to the lowest bidder) some suitable person or persons to take care of and maintain such hospitals and poor houses, and the court shall also appoint (not let to the lowest bidder) some suitable graduate in medicine to attend such indigent sick or otherwise dependent poor. Indigent poor and sick.
Taxes, hospital, poor house.

FARM.

7. To provide a farm and work shops in connection with the county hospital or poor house, sufficient to employ the inmates thereof, and make rules and regulations for working the same. Farm.

COUNTY OFFICES.

8. When there are no necessary county buildings to provide suitable rooms for county purposes. Offices.

PURCHASE AND CONTROL REAL ESTATE.

9. To purchase, receive by donation or lease any real or personal property necessary for the Property.

use of the county, and preserve, take care of and manage and control the same.

COURT HOUSE, JAIL AND HOSPITAL.

Public build-
ings. 10. To cause to be erected or rebuilt and furnished, a court house, jail, hospital and such other public buildings as may be necessary; *Provided*, that none of the aforesaid buildings shall be erected or constructed until plans and specifications shall have been made therefor and adopted by the court; all such buildings must be erected by contract let to the lowest responsible bidder, after notice.

SELL CERTAIN PROPERTY OF THE COUNTY.

Sale of
property. 11. To sell at public auction at the court house door, after thirty days previous notice given, either by publication in a newspaper published in the county or by posting in five public places in the county, and convey to the highest bidder for cash, any property belonging to the county, no longer required for public use, paying the proceeds into the county treasury for the use of the county.

EXAMINE AND AUDIT ACCOUNTS.

Audit accounts. 12. To examine and audit at least once a year the accounts of all officers having the care, management, collection, or disbursement of moneys belonging to the county or appropriated by law or otherwise for its use and benefit.



SAME.

Same. 13. To examine, settle and allow, all accounts legally chargeable against the county and order warrants to be drawn on the county treasurer therefor.

LEVY TAXES.

Levy taxes. 14. To levy taxes upon the taxable property of their respective counties for all county purposes, and also upon the taxable property of any district, for the construction and repairs of roads

and highways and other district purposes; *Provided*, that no tax shall be levied upon any district until the proposition to levy the same has been submitted to the qualified electors of such district and received two-thirds of all the legal votes cast upon such proposition.

MAINTAIN PUBLIC POUNDS.

15. To maintain, regulate and govern public pounds, and appoint poundkeepers, who shall be paid out of the fines imposed and collected of the owners of impounded animals, and from no other source. Pounds and fines.

EQUALIZE ASSESSMENTS.

16. To equalize assessments within their county, except assessments for municipal purposes. Equalization.

CONTROL SUITS.

17. To direct and control the prosecution and defense of all suits to which the county is a party, and when necessary, to employ counsel to assist the prosecuting attorney of the county in conducting the same. Suits.

INSURE BUILDINGS.

18. To insure the county buildings in the name and for the benefit of the county. Insurance.

FIX PRICE OF ADVERTISING, ETC.

19. The county court shall, after having advertised for bids for the same, fix the price at which the county shall be supplied with job printing, stationery and blank books, and also the price of all county advertising, and the county court of each county shall procure such supplies and advertising at a price no greater than is so fixed, and shall let the contract therefore to the lowest responsible bidder, and all bills thereof shall be certified to the county court. Advertising.

ADOPT A SEAL.

20. To adopt a seal for their court; a description and impression thereof must be filed in the office of the clerk and of the secretary of the Territory.

ENFORCE RULES.

21. To make and enforce such rules and regulations for the government of their body, the preservation of order, and the transaction of business, as may be necessary.

ANNUAL REPORT.

22. The court shall cause to be published an annual statement of the financial condition of the county, showing in detail the receipts and expenditures authorized during the preceding year.

DESTRUCTION OF WILD ANIMALS, ETC.

23. To provide for the destruction of wild animals, noxious weeds, and insects injurious to fruit or fruit trees, or vine or vegetables, or plant life.

ESTABLISH FUNDS.

24. To establish such county funds as they may deem necessary for the proper transaction of the business of the county, and to pay therefrom the salaries or compensation of public officers, which the law contemplates or requires to be paid from the county treasury.

FILL VACANCIES.

25. To fill by appointment all vacancies that may occur in any office filled by the appointment of the county court, and elective county, district or precinct offices; the appointee to hold office for the unexpired term.

TO PROVIDE FOR THE PRESERVATION OF PUBLIC HEALTH.

26. To adopt such provisions for the preservation of the health of their respective counties,

or any district therein, or portion thereof, except municipal corporations, as they may deem necessary, and to provide for paying the expenses thereof; and when the expense is incurred in a district or portion of a county for the particular benefit thereof, the court may fix the boundaries of such district or portion, and levy a tax on the property therein to pay the same, the tax to be levied and collected in the same manner as other taxes are levied and collected.

COMMON CARRIERS.

27. To adopt such rules and regulations within their respective counties, as may be necessary to regulate or prohibit the leaving by any persons or common carrier, within the limits of their respective counties, of any indigent or insane persons or travelers, not residents thereof, or the bodies of persons who die while traveling, unless such common carrier shall undertake to be responsible for the proper burial of such bodies, or unless such deceased person was, at the time of his death, a resident of the county within which it is proposed to deliver his body. Also to regulate or prohibit the bringing into, or leaving within their respective counties, of persons afflicted with, or who have but recently been exposed to any contagious disease.

WORKING PRISONERS.

28. To provide for the working of prisoners confined in the county jail, under judgment of conviction of a misdemeanor, (when under such judgement of conviction or existing laws said prisoners are liable to labor) under the direction of some responsible person, upon the public grounds, roads, streets, alleys, highways, or public buildings, for the benefit of the county.

BURYING DEAD.

29. To provide for the burying of the indigent dead.

MAKE AND ENFORCE LOCAL REGULATIONS.

Local police
regulations.

30. To make and enforce within the limits of their respective counties, except within municipal corporations, all such local, police, sanitary and other regulations as are not in conflict with general laws.

ADOPT RULES.

Powder, etc.

31. To adopt such rules and regulations within their respective counties, except within municipal corporations, with regard to the keeping and storing of every kind of gun powder, hercules powder, giant powder, or other combustible material, as the safety and protection of the lives and property of individuals may require.

SHERIFF TO ATTEND MEETINGS.

Sheriff.

SEC. 20. The county court shall have power to direct the sheriff to attend, in person or by deputy, all meetings of the court, to preserve order, serve notices, subpoenas, citations, or other process, as directed by the court.

SUBPENA FOR WITNESSES, BOOKS, ETC.

Witnesses.
Production of
books.

SEC. 21. Whenever the county court of any county shall deem it necessary or important to examine any person as a witness upon any subject or matter within the jurisdiction of such court, or to examine any officer of the county in relation to the discharge of his official duties as to the receipt or disbursement by him of any moneys or concerning the possession or disbursement by him of any property belonging to the county, or to use, inspect, or examine any books, accounts, vouchers, or document in the possession of such officer, or other person, or under his control, or relating to the affairs or interests of the county, the probate judge shall issue a subpoena, in proper form, commanding such person or officer to appear before such court, at a time and place therein specified, to be examined as a witness, and such subpoena may contain a clause re-

quiring such person or officer to produce on such examination all books, papers and documents in his possession or under his control, relating to the affairs or interests of the county.

SUBPŒNA, HOW SERVED.

SEC. 22. It shall be the duty of the sheriff, or any deputy sheriff of the county, or constable of any precinct, to whom the subpœna may be delivered, to serve the same by reading it to the person named therein, and at the same time delivering him a copy thereof, and his official return thereon of the time and place of such service, shall be prima facie evidence thereof.

Subpœna.

POWERS OF CHAIRMAN OF COMMITTEE.

SEC. 23. Whenever the county court shall have appointed any member of their body a committee upon any subject or matter of which the court has jurisdiction, and shall have conferred upon such committee power to send for persons and papers, the chairman of such committee shall possess all the powers and be liable to all the duties therein given to and imposed upon the probate judge.

Chairman,
powers of.

PENALTY FOR NEGLIGENCE TO APPEAR AND TESTIFY.

SEC. 24. Whenever any person duly subpœnaed to appear and give evidence, or to produce any books or papers, as herein provided, shall neglect or refuse to appear, or to produce such books and papers, according to the exigency of such subpœna, or shall refuse to testify before such court or committee, or to answer any questions which a majority thereof shall decide to be proper and pertinent, he shall be deemed in contempt, and it shall be the duty of the probate judge or of the committee, as the case may be, to report the fact to the judge of the district court of the judicial district in which such county is situated, who shall thereupon issue an attachment in the form usual in the court o

Contempt and
proceedings
therefor.

which he is judge, directed to the sheriff of the county, or any constable where such witness was required to appear and testify, commanding said sheriff or constable to attach such person, and forthwith bring him before the judge by whose order such attachment was issued.

SAME.

Same.

SEC. 25. On the return of the attachment and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted, as in case of a witness subpoenaed to appear and give evidence on the trial of a civil case before a district court.

NOT ENTITLED TO FEES.

Fees and compensation.

SEC. 26. The witnesses summoned to testify on behalf of the county in matters of public concern before the county court, are not entitled to have their fees prepaid; but the court must allow them reasonable compensation for the expense of their attendance.

LIMITATIONS ON COUNTY COURTS.

Limitations on court.

SEC. 27. The court must not, for any purpose, contract debts or liabilities, except in pursuance of law, nor shall such indebtedness or liability, in any manner or for any purpose, exceed in any fiscal year the income and revenue of such county for the two fiscal years immediately preceding the incurring of such indebtedness.

CLAIMS MUST BE ITEMIZED.

Claims to be itemized.

SEC. 28. The county court must not hear or consider any claim in favor of any person, corporation, company or association, against the county, nor shall the court credit or allow any claim or bill against any county or district fund,

unless the same be itemized, giving names, dates, the particular service rendered, character of process served, upon whom, distance traveled, where and when, character of work done, number of days engaged, materials furnished, to whom, and quantity and price paid therefor, duly verified as to its correctness, and that the amount claimed is justly due, is presented and filed with the clerk of the court, within a year after the last item or claim accrued. If in case of any claim which requires itemizing the court do not hear or consider the same because it is not itemized, they shall cause notice to be given to the claimant, or his attorney, of that fact, and give time to have the claim itemized and be verified.

Notice.

SAME.

SEC. 29. No account must be passed upon by the court unless made out as prescribed in the preceding section, and filed by the clerk.

Same.

CERTAIN CLAIMS MUST BE REJECTED.

SEC. 30. When the court finds that any claim presented is not payable by the county, or is not a proper county charge, it must be rejected; if they find it to be a proper county charge, but greater in amount than is justly due, the court may allow the claim in part, and authorize the clerk to draw a warrant for the portion allowed, on the claimant filing a receipt in full for his account. If the claimant is unwilling to receive such amount in full payment, the claim may be again considered at any regular session of the court within six months thereafter.

Rejection and allowance of claims.

PROCEEDINGS AFTER REJECTION OF CLAIM.

SEC. 31. A claimant dissatisfied with the rejection of his claim or demand, or with the amount allowed him on his account, may sue the county therefor, at any time within six months after the final action of the court, but not afterward, and if, in such action, judgment is recovered

Suit upon rejected claim.

for more than the court allowed, on presentation of a certified copy of the judgment, the court must allow and pay the same, together with the costs adjudged; but if no more is recovered than the court allowed, the court must pay the claim, but no more than was originally allowed.

WARRANT MUST SPECIFY FUND.

Warrants.

SEC. 32. Warrants drawn by order of the court on the county treasury must specify the liabilities for which they are drawn, and the funds from which they are to be paid. The treasurer must pay the warrants in the order of their presentation. If the fund is insufficient to pay any warrant, it must be registered, and thereafter paid in the order of its registration.

NO MEMBER OF THE COURT MUST BE INTERESTED IN CERTAIN CLAIMS.

Member of court not to be interested.

SEC. 33. No member of the court must be interested, directly or indirectly, in any property purchased for the use of the county, nor in any purchase or sale of property belonging to the county, nor in any contract made by the court or other person on behalf of the county, for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or for other purposes.

NOTICES, WHERE POSTED.

SEC. 34. All public notices of proceedings of, or to be had before the court, not otherwise specially provided for, must be posted at the court house door, and two other public places in the county.

SHADE TREES.

Shade trees.

SEC. 35. The court, under such regulations as they may adopt, may encourage the planting and preservation of shade and ornamental trees on the public roads and highways, and on and about the public grounds and buildings of the county.

CLAIMS BY MEMBERS.

SEC. 36. All claims against the county presented by members of the county court for per diem and milage, or other service rendered by them, must be itemized and verified as other claims, and must state that the service has been actually rendered.

STATEMENT BY THE CLERK.

SEC. 37. The court must have prepared by the clerk, and under their direction, prior to their annual meeting for levying taxes, a statement showing:

1. The indebtedness of the county, stating the amount of each class and the rate of interest borne by such indebtedness, or any part thereof;
2. The amount of cash in the county treasury and its several funds;
3. The amount of unpaid taxes, if any, for the previous year.

TO RECEIVE DONATIONS OF PROPERTY.

SEC. 38. The court may receive from any source, lands and other property which may be donated to the county for the purpose of aiding in the erection of county buildings, roads, bridges, or other specific purposes, and may use the same therefor, and may provide for the sale of the same, and the application of the proceeds thereof.

AMOUNT OF BONDS.

SEC. 39. Each selectman, before entering upon the discharge of the duties of his office, shall give a bond to the county for which he has been elected, in the sum of five thousand dollars, conditioned that he will honestly and faithfully perform the duties of his office; said bond to be with at least two good and sufficient sureties, to the acceptance and approval of the probate judge of said county, and filed in his office. All persons offered as sureties on such official bonds may be examined on oath touching their qualifications, and no person can be admitted as surety

on any such bond unless he is a resident and freeholder or householder within the Territory, and is worth, in real or personal property, or both, situate in this Territory, the amount of his undertaking over and above all his just debts and liabilities, exclusive of property exempt from execution and forced sale.

COURT TO AUDIT COUNTY CHARGES.

Accounts.

SEC. 40. Accounts for county charges of every description must be presented to the county court, to be audited as prescribed in this act.

COMPENSATION OF MEMBERS.

Compensation.

SEC. 41. The probate judge and selectman shall each receive from their county, four dollars per day for each day actually employed in attending to business pertaining to the county court, together with mileage at the rate of twenty cents per mile in going only from their residences to the county seat at each session of the court attended by them.

SEC. 42. Nothing contained in this act is intended to diminish, impair, or in anywise effect the powers heretofore conferred upon incorporated cities and towns.

SEC. 43. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 8th, 1888.

CHAPTER LI.

COUNTY RECORDERS.

AN ACT Defining the Duties of County Officers.

ARTICLE I.

PROBATE JUDGES.

Term.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That there shall be a probate judge in each

county of the Territory of Utah, whose term of office shall be two years, and until his successor shall be qualified.

SEC. 2. Each probate judge, before entering upon the discharge of the duties of his office, shall give a bond to the county for which he has been elected or appointed, for the faithful performance of his official duties, in the penal sum of five thousand dollars, which amount may be increased by the county court of the county to any sum not exceeding twenty thousand dollars, with at least two good and sufficient sureties, who are residents of the county, and worth the sum for which they become liable, over and above all their debts and liabilities in property not exempt from execution, which said bond shall be approved by, and filed with the county treasurer; and shall take and subscribe an oath to the effect that he will honestly and faithfully perform the duties of the office on which he is about to enter, which oath shall be attached to and filed with said bond.

SEC. 3. He shall reside at the county seat, and preside at all sessions of the probate court. He shall also preside at all sessions of the county court at which he may be present, and shall perform such other duties as may be required of him by law.

FEES OF PROBATE JUDGES.

SEC. 4. For each day's attendance in court hearing a case previously set	\$3.00	
For making each order or decree in probate, when the matter comes on without notice50	Fees.
For approving sureties on any bond or undertaking.....	.25	
For examining and approving or rejecting a creditor's claim when the examination of witnesses is unnecessary.....	.25	
For making any certificate.....	.50	
For administering an oath.....	.25	

For certifying to same.....	.25
For taking an acknowledgment or proof of an instrument and certifying thereto, for the first signature.....	.50
For each additional signature.....	.25
For any other service not herein provided for, a reasonable compensation.	

ARTICLE II.

CLERK OF THE COUNTY COURT.

SECTION 1. That at the general election next to be held and biennially thereafter, there shall be elected in each county in this Territory, by the qualified electors thereof, a clerk of the county court who shall be ex-officio clerk of the probate court of such county, and whose term of office shall be two years, and until his successor shall be elected or appointed and qualified.

SEC. 2. Within thirty days after his election or appointment, the clerk of the county court shall take the oath of office and give a bond to the county for which he has been elected or appointed, in such sum and with such sureties as the county court of such county shall determine and approve, conditioned for the faithful performance of the duties of said office; which oath of office and bond shall be filed in the office of the probate judge of the said county.

SEC. 3. He shall keep his office at the county seat, shall act as clerk of the probate and county courts, and take charge of, and safely keep or dispose of, according to law, the seals of said county, and all books, papers and records which may be filed or deposited in his office.

SEC. 4. He shall have power to take acknowledgments to all instruments in writing, administer oaths, issue all process and notices required to be issued; enter a synopsis of all

orders, judgments, and decrees, proper to be entered, unless the law or the court shall direct them to be entered at length.

SEC. 5. He shall:

1. Record all proceedings of the county court. Shall record.

2. Make full entries of all their resolutions and decisions on questions concerning the raising of money for, and the allowance of accounts against the county.

3. Record the vote of each member on any question upon which there is a division, or at the request of any member present.

SEC. 6. He shall keep an accurate account of all receipts and expenditures of his county; also, of all debts payable to and by said county. Accounts of county business to be kept. At the first session of the county court held in each year, the clerk of the county court shall submit to the said court a statement showing the total amount received from each source of revenue during the fiscal year ending on the thirty-first day of December last preceding, the balance, if any, in the treasury, at the close of the previous fiscal year; expenditures during the fiscal year just closed; specifying separately the total amount paid to each officer and the total amount for each and every disbursement, the balance on hand, if any, together with a statement of all the debts payable to and by said county; *Provided*, that the several clerks of the county courts shall make and furnish to the county courts of the several counties, financial statements up to and including May 31, 1888, and thereafter shall prepare and furnish a similar statement showing the receipts and disbursements of their several counties from June 1, 1888, to December 31, 1888, after which time the fiscal year shall begin January 1, and end December 31st of each year. He shall, within thirty days after the auditing of any such statement by the said court, transmit a certified copy thereof to the auditor of public accounts, to be filed by him, and furnished to the legislative assembly during the next succeeding session.

He shall also file and preserve the reports of the county treasurer of the receipts and disbursements of the county.

He shall preserve and file all accounts acted upon by the county court, authenticate with his signature and seal of the county court the proceedings of the court, whenever the same shall be ordered published, record all orders levying taxes, and perform all the duties required by law, or any rule or order of the court.

Deputy clerk.

SEC. 7. Each clerk of the county court may appoint one or more deputies, for whose official acts he shall be responsible, and who, before entering upon the duties of the office, shall take the oath of office.

Salary.

SEC. 8. The compensation of the clerk of the county court for services rendered the county shall be by salary, such as may be prescribed or allowed by the county court of their respective counties.

FEES OF CLERKS OF THE COUNTY COURTS AND EX-OFFICIO CLERKS OF THE PROBATE COURTS.

	For filing petition in the commencement of an action.....	\$1.00
Fees.	For filing each paper and entering the same on register of action.....	.25
	For recording all papers required by law to be recorded, for each hundred words...	.20
	For copy of any proceeding, record or paper, for each hundred words.....	.20
	For each certificate under seal.....	.50
	For administering an oath25
	For certifying to the same25
	For issuing each notice.....	.25
	For posting notices.....	.25
	For issuing citations, for the first person....	.50
	For each other person named therein.....	.10
	For issuing a subpoena for the first person..	.50
	For each other person named therein.....	.10
	For taking testimony of witnesses in writing, when requested, for each hundred words	.20

For issuing letters testamentary, letters of administration, or letters of guardianship.....	\$1.00
For entering each claim in the register of claims.....	.25
For issuing an execution.....	1.00
For taking an acknowledgment or proof of an instrument and certifying thereto, for the first signature.....	.50
For each additional signature.....	.25
For any other service not herein provided for, a reasonable compensation.	

ARTICLE III.

COUNTY TREASURERS.

SECTION 1. That at the general election next to be held, and biennially thereafter, there shall be elected in each county of this Territory, by the qualified electors thereof, a county treasurer, who shall hold his office for the term of two years, and until his successor in office shall be elected or appointed and qualified. Election.

SEC. 2 Within thirty days after his election or appointment, the treasurer shall take the oath of office and give a bond to the county for which he has been elected or appointed, in such sum not less than the whole amount of the revenue of the county for the year next preceding his election, and with such surities as the county court of such county shall determine and approve, conditions for the faithful performance of the duties of said office; which oath of office and bond shall be filed in the office of the clerk of the probate court of the said county. Oath and official bond.

SEC. 3. The county treasurer must receive and safely keep all funds belong to the county, and pay out the same only on warrants issued by the clerk of the county court of the county; he must keep an accurate account of all moneys or Duties.

other funds received or disbursed by him; he must issue duplicate receipts, keeping a memorandum stub for all money or other funds received by him, and deliver to the person paying the same the duplicate and present to the clerk of the county court the original receipt. He must pay all county warrants presented for payment in the order of presentation, if he has sufficient funds for that purpose, and must keep a cancelling stamp and imprint the same on every warrant paid by him. At the close of each fiscal year he must make and present to the county court a statement, showing the balance in the treasury at the close of the previous fiscal year, the amount received from each source of revenue, the amount disbursed, and the balance, if any, in the treasury; he must present with each annual statement, as vouchers for disbursement, all warrants paid by him during the fiscal year. If required by the court, he must make a statement, at any time, showing the condition of the treasury, and his office shall be kept at the county seat.

Salary.

SEC. 4. The treasurer shall receive a salary for his services the amount of which shall be determined by the county court, and paid out of the county treasury, upon warrants drawn therefor by the clerk of the county court.

ARTICLE IV.

SHERIFFS.

Election.

SECTION 1. That at the next general election, and every two years thereafter, a sheriff shall be elected in each county, whose term of office shall be two years, and until his successor is qualified.

Bond and Oath

SEC. 2. Before entering upon the duties of his office, the sheriff shall give bonds in at least five thousand dollars, with approved security, and take and subscribe an oath for the faithful

performance of his duties; said bond and oath to be approved by the probate judge, and filed in the office of the clerk of the probate court.

SEC. 3. The sheriff may appoint a deputy or deputies, for whose acts he shall be responsible, and who shall qualify in the same manner as the sheriff, except that the bonds may be in the sum of two thousand dollars each.

SEC. 4. When the sheriff's costs are tendered or satisfaction given that the costs of service will be reasonably paid, it is the duty of sheriffs to faithfully and diligently execute all orders, processes and requirements of a court, under a penalty of whatsoever costs, damages and fine may be adjudged.

SEC. 5. The sheriff of the county wherein a jail is or may hereafter be erected, shall by virtue of his office, become the jailor, and shall furnish all necessary supplies for persons therein kept.

SEC. 6. The said jailor shall receive and safely keep all persons duly committed to his custody, and shall record all precepts, by which persons are committed, and keep a register of each—the name, age, place of birth, particularly describing the person, in a book kept for that purpose.

SEC. 7. Male and female prisoners shall not be kept in the same room, and females shall be under the supervision of a suitable matron, who shall be appointed by the sheriff.

SEC. 8. The common jails in the several counties of the Territory shall be kept by the sheriffs of the counties in which they are respectively situated, and shall be used as follows:

1. For the detention of persons committed in order to secure their attendance as witnesses in criminal cases.

2. For the detention of persons charged with crime and committed for trial.

3. For the confinement of persons committed for contempt or upon civil process, or by other authority of law.

4. For the confinement of persons sen-

tenced to imprisonment therein upon a conviction of crime.

Separation of
prisoners.

SEC. 9. Persons committed on criminal process, and detained for trial, persons convicted and under sentence, and persons committed upon civil process, must not be kept or put in the same room, nor shall male and female prisoners (except husband and wife) be kept or put in the same room.

Service of pro-
cess on
prisoners.

SEC. 10. A sheriff or jailor upon whom a paper in a judicial proceeding, directed to a prisoner in his custody, is served, must forthwith deliver it to the prisoner, with a note thereon of the time of its service. For a neglect to do so he is liable to the prisoner for all damages occasioned thereby.

Guard.

SEC. 11. The sheriff, when necessary, may, with the assent in writing of the probate judge, employ a temporary guard for the protection of the county jail, or for the safe keeping of prisoners, the expenses of which are a Territorial or county charge, as the case may be.

Food, etc., for
prisoner.

SEC. 14. The sheriff must receive all persons committed to jail by competent authority, and provide them with necessary food, clothing and bedding, for which he shall be allowed a reasonable compensation, to be determined by the county court, and, except as provided in the next section, to be paid out of the county treasury.

Committed on
civil process,
etc.

SEC. 15. Whenever a person is committed upon process in a civil action or proceeding, except when the people of this Territory are a party thereto, the sheriff is not bound to receive such person, unless security is given on the part of the party at whose instance the process is issued, by a deposit of money to meet the expenses for him of necessary food, clothing and bedding, or to detain such person any longer than these expenses are provided for. This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court.

SEC. 16. It is hereby made the duty of the sheriffs to serve any and all process, both mesne and final, issued out of any of the courts of this Territory when directed to him or placed in his hands for service. Service of process.

ARTICLE V.

COUNTY SURVEYORS.

SECTION 1. That at the general election next to be held, and biennially hereafter, there shall be elected in each county of the Territory, by the qualified electors thereof, a county surveyor, who shall hold his office for the term of two years, and until his successor in office shall be elected or appointed and qualified. Election.

SEC. 2. Within thirty days after his election or appointment the surveyor shall take the oath of office and give a bond to the county for which he has been elected or appointed, in such sum and with such sureties as the probate judge of such county shall determine and approve, conditioned for the faithful performance of the duties of said office; which oath of office and bond shall be filed in the office of the clerk of the probate court of the said county. Oath and bond.

SEC. 3. The surveyor must make any survey that may be required by an order of court, the county court, or upon application of any person, keep a correct and fair record of all surveys made by him, number them in the order made, and preserve a copy of the field notes and calculations of each survey; endorse thereon its proper number, a copy of which and a fair and accurate plat, together with the certificate of survey, must, upon application, be furnished by him to any person upon payment of the fees allowed by law. He shall also have power to administer and certify oaths whenever necessary in the discharge of his official duties. Duty.

Records.

SEC. 4. The records necessary for the surveyor's office shall be furnished by the county court, and shall be the property of the county; they shall be open to the inspection of any person having an interest therein, free of charge, and shall be delivered by the surveyor to his successor in office.

Surveys.

SEC. 5. Any person owning or claiming lands which are divided by county lines, and wishing to have the same surveyed, may apply to the surveyor of any county in which any part of said land is situated, and on such application being made, the surveyor must make the survey, which is as valid as though the lands were situated entirely within the county of the surveyor making the survey.

Land in two counties.

SEC. 6. When land, the title to which is in dispute before any court, is divided by the county line, the court making an order of survey may direct the order to the surveyor of any county in which any part of the land is situated.

Courses in surveys.

SEC. 7. In all surveys the courses must be expressed according to the true meridian, and the variation of the magnet meridian from the true meridian must be expressed on the plat, with the date of the survey.

Chainmen.

SEC. 8. If a party for whom a survey is made does not furnish the chainmen and markers, the surveyor may employ the necessary chainmen and markers, and receive the reasonable hire of all assistants necessarily employed.

County surveyor interested, court to appoint.

SEC. 9. When the county surveyor is interested in any land the title to which is in dispute, and a survey thereto is necessary, the court must direct the survey to be made by some disinterested person, and the person so appointed is for that purpose, authorized to administer and certify oaths. He must return such survey, verified by his affidavit annexed thereto, and receive for his services the same fees as the county surveyor would be entitled to for similar service.

SEC. 10. It shall be the duty of each surveyor to make a sufficient corner, of stone or wood, at the southeast corner of each survey made by him, and make a record of such corner in his return diagrams. Corners.

SEC. 11. He shall perform such other services as may be required of him by law.

SEC. 12. Each county surveyor may appoint one or more deputies, who, before entering upon the duties of the office, shall take the oath of office and give bonds and security in like sum and manner as their principals, and all surveys made by any such deputy, when certified to by the county surveyor, or by such deputy in the name of the surveyor and the deputy as such, shall be valid, the same as if made by the county surveyor himself in person. Deputy.

ARTICLE VI.

COUNTY PROSECUTING ATTORNEYS.

SECTION 1. That at the general election next to be held, and biennially thereafter, there shall be elected in each county in this Territory, by the qualified electors thereof, a county prosecuting attorney, who shall hold his office for two years, and until his successor is elected and qualified. Election.

SEC. 2. Before entering upon the duties of his office, said prosecuting attorney shall take and subscribe an oath, and give bonds with sufficient sureties to the county for which he has been elected, conditioned for the faithful performance of his duties, which bonds shall be approved by the probate judge and, with the oath, be filed in the office of the clerk of the probate court. Oath and bond.

SEC. 3. It shall be the duty of said prosecuting attorneys to commence and take charge of prosecutions, for offenses arising under the laws Duty.

of the Territory in the counties for which they are respectively elected, and if such prosecution is carried to the district court by recognizance, appeal or otherwise, may aid in conducting the prosecution in such court.

Same.

SEC. 4. When requested, it shall be the duty of the prosecuting attorneys in their respective counties to advise the county court and all other county and precinct officers of their county, and shall represent said county in all suits and controversies where it shall be interested.

Salary.

SEC. 5. The compensation of said attorneys shall be by salary such as may be prescribed or allowed by the county court of their respective counties.

Deputies.

SEC. 6. Each prosecuting attorney may appoint a deputy or deputies, for whose official acts he shall be responsible, to aid him in performing the duties of his office.

SEC. 7. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1888.

CHAPTER LII.

PAYMENT—JURORS—WITNESSES—REPORTERS.

AN ACT Providing for the Payment of Jurors, Witnesses and Phonographic Reporters and Creating and Defining the Duties of Court Commissioners.

Witnesses and
jurors, fees and
mileage.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That from the first day of January, A. D. 1888, and until the first day of April, A. D. 1890, witnesses for the Territory in criminal cases and jurors in the district courts, shall be paid the sum of two dollars per day for each day's attendance at court, and twelve cents per mile one way for the distance necessarily traveled from his place of residence to the place of holding court; *Provided,*

That in no case shall per diem be allowed to any juror for any day when the major part thereof was devoted to the trial of cases under the laws of the United States.

SEC. 2. The clerk of the district court shall, whenever a juror or witness for the Territory is discharged, issue to him a certificate, under the seal of the court, stating the name of such juror or witness, when and where he was summoned or subpoenaed, the date of his appearance at court, and the date of his discharge; the place of his residence, the number of miles necessarily traveled from his place of residence to the place of holding court, and the number of days he was in actual attendance, and, if a juror, the number of days upon which the major part of the time was devoted to Territorial criminal and civil cases.

Jurors and witnesses certify by clerk of court.

SEC. 3. The plaintiff in each civil action, except equity cases where a jury is not required, and the appellant in each civil case appealed to the district court, shall respectively, before his complaint or appeal papers are filed, deposit with the clerk of said court the sum of three dollars, which shall be known and designated as the jury fund; *Provided*, That the term "civil action" in this section shall apply to and include all actions where a municipal corporation is a party beneficially interested; *Provided further*, That in case judgment is rendered in favor of such plaintiff or appellant, said amount may be taxed as costs and collected as other costs in the action.

Three dollar, jury fund.

Costs.

SEC. 4. The clerk shall, on or before the first Monday in June, A. D. 1888, and quarterly thereafter, pay into the Territorial treasury all sums of money deposited with him under the provisions of this act, and shall at the same time furnish the auditor of public accounts a statement in writing showing the number of complaints filed and the number of appeals taken to the district court in civil cases since making his last statement to said auditor, together with the title of each case.

Same.
Duty of clerk.

Attendance
roll by clerk.

SEC. 5. It shall be the duty of the clerks of the several district courts to keep an attendance roll, in which shall be noted the name of each witness subpoenaed for the prosecution in Territorial criminal cases; the name of each witness subpoenaed for the defendant at the expense of the Territory under order of the court; the name of each juror; when said witness or juror was subpoenaed or summoned; the date of appearance; the date of discharge; each day's attendance with the date thereof; his place of residence, and the number of miles necessarily traveled by said witness or juror, from the place of his residence to the place of holding court, and if a juror, the number of days upon which the major portion of the time was devoted to the trial of Territorial criminal and civil cases or investigations of Territorial criminal cases before a grand jury as the case may be.

Statement by
foreman of
grand jury.

Clerk's certifi-
cate of attend-
ance.

SEC. 6. Whenever a grand juror or witness for the Territory before the grand jury is finally discharged, the foreman of said grand jury shall furnish the clerk of said court a statement, under oath, containing the information not a matter of record required in the preceding section relative to said juror or witness, whereupon the clerk shall issue a certificate to said witness or juror as in this act provided, and shall enter the facts not already a matter of record upon such attendance roll, and carefully file and preserve the statement of said foreman for reference as hereinafter provided; *Provided*, that in no case shall any grand juror or witness before the grand jury be required to disclose any fact to any clerk or court commissioners except matters relating to his attendance.

Witness to re-
port daily at-
tendance to
clerk.

SEC. 7. Every witness subpoenaed for the Territory, and every witness subpoenaed for a defendant under order of the court at the expense of the Territory, and every juror, whether grand or petit, shall report in person daily to the clerk his attendance at court from the time of his appearance till the date of his discharge, and

no per diem shall be allowed for any day upon which attendance is not so reported, except in cases of sickness, while absent from home, as such juror or witness, which fact must be stated under oath to the court by the juror or witness, or some person on his behalf cognizant of the facts, whereupon the court may order the allowance per diem for such number of days as may be just and equitable; said statement so made, under oath as aforesaid, must be filed with the clerk and preserved for reference as hereinafter provided.

Duty of clerk.

SEC. 8. No witness for a defendant in a criminal case shall be subpoenaed, paid mileage or per diem by the Territory, except upon an order of the court when said defendant is awaiting trial for a felony, or indictable misdemeanor. Said order can only be made upon affidavit made by defendant in person showing:

Witnesses for defendant not allowed fees, except when.

1. That said defendant is impecunious and unable to pay the per diem and mileage of said witness:

2. That the evidence of said witness is material for defendant's defense as he is advised by his counsel, and

3. That said defendant cannot safely proceed to trial without said witness.

If said facts are not successfully controverted by the district attorney or by the affidavit of some person cognizant of the facts the court may issue an order as aforesaid directing that said witness, if within the Territory, be subpoenaed and paid per diem, and mileage by the Territory, the same as witnesses for the prosecution.

Impecunious defendant.

SEC. 9. Hereafter and until the first day of April, A. D. 1890, phonographic reporters in Territorial criminal cases shall receive ten dollars per diem for taking testimony and other proceedings of the court in said cases, and fifteen cents per one hundred words for transcribing the same, and shall be paid upon presentation of a certificate of the clerk of said court as hereinafter provided.

Phonographic reporters' fees.

Clerk's certificate to reporter

SEC. 10. At the close of each term of the district court, the clerk of said court shall issue to the phonographic reporter thereof a certificate, to be approved by the court, showing the actual number of days said reporter was engaged in taking testimony and other proceedings of the court in Territorial criminal cases, and also the number of folios of such proceedings transcribed by said reporter, together with the amount due for the services so rendered.

Court commissioners, names of.

SEC. 11. The following named persons are hereby appointed court commissioners, whose term of office shall expire on the fifteenth day of April, A. D. 1890, to-wit: Joseph Standford, who shall act as commissioner at Ogden, for the northern division of the first judicial district; John W. Turner, who shall act at Provo for the southern division of the first judicial district; Benjamin Bennett for the second judicial district, and Geo. D. Pyper for the third judicial district. In case of the failure or omission of said persons, from any cause, to accept said office, or in case of a vacancy by death, resignation, or from any other cause in either of said offices the clerk of the county in which the district court is held shall be the commissioner of said court and qualify as such as in this act provided for the qualifications of commissioner.

Vacancy.

Official oath and bond.

SEC. 12. Each of said court commissioners, within thirty days after the passage of this act, or the county clerk immediately after receiving knowledge that the duties of said office have devolved upon him, as in this act provided, shall qualify by subscribing to the oath of office and filing bonds with at least two sufficient sureties with the Territorial auditor of public accounts, which bonds must be approved by him in the penal sum of ten thousand dollars.

Commissioners duties and powers.

SEC. 13. It shall be the duty of said commissioners to examine all court certificates under the provisions of this act presented to them and compare them with the records of the court. They shall have access to all records, papers and

statements, except indictments or other proceedings before the grand jury touching upon service rendered by jurors, witnesses and phonographic reporters, and may administer oaths or affirmations to the holder of any such certificate or the person to whom it was issued, and examine him regarding the service performed, miles traveled, etc. If the commissioner is satisfied that the service has been performed and the certificates are correct, he shall allow the amount claimed, and if incorrect, shall increase or decrease the sum to the correct amount.

SEC. 14. Said commissioners are authorized to draw upon the auditor of public accounts for sufficient amount to pay said jurors, witnesses and phonographic reporters upon presentation of said certificates when audited and corrected as herein provided: *Provided*, That neither of said commissioners shall at any time have on hand more than five thousand dollars for the purpose herein mentioned.

Shall pay witnesses, jurors and reporters.

SEC. 15. They shall keep an accurate account of all moneys drawn by them, to whom, and when paid, and the cause of disbursement, and they shall disburse no money except upon the presentation of said court certificates, and when payment is made thereupon said certificate shall be taken up, cancelled, registered and filed annually with the auditor of public accounts.

Shall keep accounts.

SEC. 16. During the first ten days of the session of the next legislative assembly said commissioners shall transmit to said assembly reports of their proceedings under this act. For their services under this act each of said commissioners shall receive the sum of three hundred dollars annually, to be paid by the Territorial treasurer upon the warrant of the auditor of public accounts, out of the amount appropriated and set apart in the next section.

Report to next legislature.

Compensation.

SEC. 17. The Territorial treasurer, for the purpose of carrying out the provisions of this act, is hereby required to set apart and reserve in a separate fund to be known as the fund for the

Territorial treasurer's duty.

payment of jurors, witnesses and phonographic reporters, all moneys appropriated for said purpose, to be paid out only upon the auditor's warrant for the payment of said phonographic reporters,' jurors' and witnesses' certificates and the salaries of said commissioners.

Warrant,
auditor on
treasurer.

SEC. 18. It shall be the duty of the auditor of public accounts to issue his warrant upon said Territorial treasurer, for any amount not exceeding five thousand dollars at any one time, to either of said commissioners, upon an order signed by him.

Perjury and
punishment.

SEC. 19. Every witness, juror, phonographic reporter or other person, to whom an oath has been administered under the provisions of this act, who shall state as a fact any matter which he knows to be untrue shall be deemed guilty of perjury and shall be punished by imprisonment in the penitentiary not less than one nor more than ten years.

Misdemeanor.

SEC. 20. Every clerk of the district court who shall certify as a fact any matter which he knows to be untrue whereby any witness, juror or phonographic reporter shall be allowed a greater sum than he would otherwise be entitled to under the provisions of this act, shall be deemed guilty of a misdemeanor.

Misdemeanor.

SEC. 21. Every court commissioner who shall audit any court certificate provided for in this act, and willfully allows a greater or less amount thereon than should be allowed under this act, or who shall require any grand juror or witness before the grand jury to state any fact other than such as relate to the attendance of such juror or witness, shall be deemed guilty of a misdemeanor.

Repeal.

SEC. 22. So much of Chapter 2, title 4 of an act entitled, "An act Revising the Code of Civil Procedure of Utah Territory," approved March 13, 1884, as provided for the payment of phonographic reporters in criminal cases, is hereby repealed.

SEC. 23. No person connected officially with either of the district courts of this Territory nor any public officer shall be interested, either directly or indirectly, by purchase or otherwise, in any certificate issued for the service of jurors or witnesses under this act, and any person violating the provisions of this section is guilty of a misdemeanor.

Who not to purchase certificates.

Misdemeanor.

SEC. 24. This act shall expire by limitation on the first day of April, A. D. 1890, and shall be in force from and after April 1, 1888.

Limitation.

Approved March 8, 1888.

CHAPTER LIII.

JURORS AND WITNESSES.

AN ACT Amending an Act Entitled An Act Providing for the Payment of Jurors, Witnesses and Phonographic Reporters and Creating and Defining the Duties of Court Commissioners, Approved March 8, A. D. 1888.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 24 of said act be and is hereby amended by adding thereto the following, to-wit:

SEC. 2. This act shall be in force from and after the date of its approval.

Approved March 8, 1888.

CHAPTER LIV.

PROBATE PROCEDURE.

AN ACT Amending an Act, entitled "An Act Relating to Procedure of Probate Courts, in the Settlement of Estates, and in Guardianship," Approved March 12th, 1884.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 2 of Chapter 5 of "An Act relating to

Probate judge to set apart exempted property for widow and children.

Procedure of Probate Courts, in the settlement of Estates, and in Guardianship," approved March 12th, 1884, be amended by striking out all of said section and substituting in lieu thereof the following: Section 2. Upon the return of the inventory, or at any subsequent time during the administration, the court may, on its own motion, or on petition therefor, set apart for the use and support of the widow and minor children of the decedent, if there be a widow and minor children, and if no widow, then for the children, if there be any, and if no children, then for the widow, all the property of the decedent, exempt from execution.

Same.
Interest of
widow and
children.

SEC. 2. That Section 5 of said Chapter 5 be amended by striking out all of said section and substituting in lieu thereof the following: Section 5. When property is set apart in accordance with the provisions of the preceding sections of this chapter, if the decedent left a widow and no minor child, such property is the property of the widow. If the decedent left also a minor child or children, the one-half of such property shall belong to the widow, and the remainder to the child, or in equal shares to the children, if there be more than one. If there be no widow, the whole belongs to the minor child or children.

Same.
Absolute title.

SEC. 3. That Section 6 of said Chapter V. be amended by adding at the end thereof the following: *Provided*, that the title to all property assigned under the provisions of this section, shall vest absolutely and equally in the persons to whom such property has been assigned.

SEC. 4. That Sections 8, 9, 10, 11, 12, 13 and 14 of said Chapter V. be, and they are hereby repealed.

SEC. 5. That Section 2 of Chapter VI. of said act be amended by striking out the word "two" in the third line of said section, and substituting in lieu thereof the word "three."

SEC. 6. That Section 26 Chapter III. of said act be amended by striking out all of said sec-

tion and substituting in lieu thereof the following: Section 26. Administration may be granted to one or more competent persons, although not otherwise entitled to the same, at the written request of the person entitled, filed in the court.

Who entitled to
administration
on written re-
quest.

SEC. 7. This act shall take effect from and after its passage and approval by the Governor.

Approved March 8th, 1888.

CHAPTER LV.

DESERET A. M. SOCIETY.

An Act to amend Section 2 of an Act Incorporating the Deseret Agricultural and Manufacturing Society, Approved January 17, 1856.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That Section 2 of an act incorporating the Deseret Agricultural and Manufacturing Society, approved January 17th, 1856, is hereby amended to read as follows: Section 2. There shall be a president and eleven directors, who shall be elected by the joint vote of the present legislative assembly, and biennially thereafter, by a joint vote of said assembly. Said board may elect a treasurer and secretary, and such other officers as they may deem necessary.

Election of off-
cers.

SEC. 2. This act shall take effect from and after its passage.

Approved March 8th, 1888.

CHAPTER LVI.

TERRITORIAL FAIR GROUNDS.

A RESOLUTION Accepting from Salt Lake City Lands for the Site of Agricultural Fair Grounds for the Territory of Utah and making Appropriation therefor.

WHEREAS, The City of Salt Lake has offered and tendered to the Territory of Utah, certain

lands in trust for certain specified uses, in words and figures following, to-wit:

The Honorable, the Governor and Legislative Assembly of Utah:

Offer by the
city.

GENTLEMEN:—I am directed by a select committee of the city council of Salt Lake City, consisting of Mayor F. Armstrong and Alderman W. W. Riter, Thomas G. Webber, W. S. McCornick, James Sharp, and George D. Pyper, to offer and tender to the Territory of Utah, in behalf of the City of Salt Lake, under the conditions, limitations and restrictions hereinafter named, the following described lands and premises, to be used and devoted to the erection of permanent Territorial or State Fair Buildings, to-wit: All of Block 25, Plat B, of Salt Lake City survey, containing ten acres of land; the same being known and designated as the Tenth Ward Square in said city. The said conditions, limitations and restrictions to be as follows, viz.:

1. Acceptance of the Governor and Legislative Assembly of the premises designated and the trust therein conferred.

2. The payment of one dollar.

3. That the sum of twenty thousand dollars be appropriated by the Governor and Legislative Assembly of the Territory and be expended in the years 1888 and 1889 for the erection of permanent Territorial or State Fair Buildings, and for the improvement of said land.

4. That such buildings and land be used exclusively for Territorial or State Fair purposes.

5. That the portion of the grounds not actually devoted to buildings as aforesaid be improved and cultivated as a public park.

6. That whenever the purposes for which the proposed grant is made shall cease to be carried out, and said grounds cease to be used for said Territorial or State purposes as herein provided, then the proposed trust shall cease, and the grant become absolutely void and of no effect and said lands revert to the grantor.

On the acceptance of the trust herein proposed and of the condition 'hereof by the Governor and Legislative Assembly of the Territory of Utah, the mayor of said city will be authorized to execute a proper deed of conveyance of said described premises to the Territory of Utah.

Very Respectfully,

HEBER M. WELLS,
City Recorder.

SALT LAKE CITY, March 7, 1888.

AND, WHEREAS, It is to the public interest that the said offer be accepted, *Now, therefore, be it Resolved*, by the Governor and Legislative Assembly of the Territory of Utah, that the offer and tender of said land by the City of Salt Lake to the Territory of Utah, as hereinbefore set forth, be and the same is hereby accepted by the said Territory, subject to the conditions, limitations and restrictions in said offer specified and set forth. And be it further

Resolved, That the sum of twenty thousand dollars is hereby appropriated for the purpose of erecting suitable fair buildings on the above mentioned land, and that said money shall be drawn and expended by the Deseret Agricultural and Manufacturing Society in pursuance of the provisions of this resolution.

Approved March 8, 1888.

CHAPTER LVII.

APPROPRIATIONS.

AN ACT Making Appropriations for General Purposes.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That the following sums of money are hereby appropriated, out of any money in the Territorial

Treasury, not otherwise appropriated, for the objects hereinafter expressed.

	1	For rent of rooms for auditor and treasurer, sealer of weights and measures and recorder of marks and brands, for 1888 and 1889, one half to be drawn each year.	\$ 1,200.00
Witnesses and jurors.	2	For payment of outstanding court certificates, for witnesses and jurors in criminal cases in which the Territory is liable to Dec. 31, 1887, as reported by the auditor of public accounts, February 3, 1888.....	28,417.70
Same.	3	For the payment of witnesses and jurors in criminal cases, in the district courts of this Territory, for the years 1888 and 1889..... <i>Provided, That the above amount shall be drawn upon vouchers duly authenticated, for services as jurors in Territorial civil and criminal cases, and for witnesses in criminal cases in which the Territory is liable.</i>	60,000.00
Whitney.	4	To Orson F. Whitney, for services as minute clerk of the House from Jan. 9th to Feb. 9th, 1888, for 28th session.....	160.00
Anderson.	5	To Edward H. Anderson, for services as minute clerk of the House from Feb. 9th to March 8, 1888, for the 28th session.....	140.00
Blair.	6	To George E. Blair, for services as minute clerk of the Council, for the 28th session.....	300.00
Deseret University.	7	For completing the Deseret University buildings, to be drawn and expended under the direction of the Chancellor and Board of Regents.....	25,451.00
Johnson.	8	To A. G. Johnson, ex-assessor of Tooele county, for relief on ac-	

	count of delinquent taxes for the year 1885.....	\$ 74.74	
9	To the Tribune Printing Co., for record books furnished to the clerk of the district court.....	58.00	Tribune.
10	To E. T. Sprague, for fees as clerk of the Supreme Court of the Territory of Utah, in Territorial criminal cases for the years 1886 and 1887.....	140.00	Sprague.
11	To Henry Dinwoody, for desk and chairs for auditor's and treasurer's office.....	198.50	Dinwoody.
12	To Nephi W. Clayton, for amount expended for offices of auditor, treasurer, and recorder of marks and brands, for the years 1886 and 1887.....	188.40	Clayton.
13	To Mary Ann Wilcken, for services of August Wilcken, deceased, as chaplain of the Council at the 26th session.....	150.00	Wilcken.
14	To Territorial Commissioners to Locate University Lands, for services rendered during the years 1886 and 1887.....	300.00	University lands.
15	To Territorial Commissioners to Locate University Lands, to be drawn by said commissioners by producing proper vouchers to the satisfaction of the auditor of public accounts.....	400.00	Same.
This act shall take effect from and after its passage and approval.			
Approved March 8, 1888.			

CHAPTER LVIII.

APPROPRIATIONS.

AN ACT Making Appropriations for General Purposes.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That*

the following sums of money are hereby appropriated out of any money in the Territorial treasury, not otherwise appropriated, for the objects hereinafter expressed.

Barnard.	1	To George D. Barnard, for records furnished to the First Judicial District Court.....	\$ 51.00
Bachman.	2	To Benjamin Bachman, for services in assisting to examine and audit claims against the Territory..	26.00
Beaver county.	3	To Beaver County, for boarding and guarding Andy Calton from Sept. 6th to Sept. 29th, 1887, to be drawn on the order of the treasurer of Beaver county....	81.45
Snowball.	4	To John Snowball, ex-assessor and collector of Rich County, for relief on account of uncollectible taxes for the year 1886.	44.10
Heyborne.	5	To R. W. Heyborne, assessor and collector of Iron County, for relief on account of uncollectible taxes for the year 1885.....	34.00
Dyer.	6	To F. H. Dyer, United States Marshall, to purchase a safe for use in the Penitentiary; safe shall be the property of the Territory, and held subject to the order of the Territorial treasurer.....	250.00
Kane county.	7	To Kane County, for the purpose of building a jail, to be drawn on the order of the county court of said county.....	1,000.00
Shepherd.	8	To W. L. Shepherd, to reimburse him for overpaid Territorial and school taxes.....	46.20
Bachman.	9	To Benjamin Bachman, deputy clerk of the First Judicial District Court, for services from February, 1886, to March 18th, 1887.....	917.45
Perkins.	10	To T. A. Perkins, for record books furnished to the First Judicial District Court	35.00

11	To L. J. Nuttall, for stationery, stamps, etc., used in the office of Superintendent District Schools,	Nuttall.	\$ 125.00
12	To P. L. Williams, for stationery, stamps, etc., used in the office of Territorial Commissioner of Schools	Williams.	241.05
13	To H. H. Henderson, for records furnished to the First Judicial District Court	Henderson.	120.00
14	To H. H. Henderson, for services as clerk of the First Judicial District Court in full for the year 1887.....	Same.	1,117.20
15	To J. R. Wilkins, for services as clerk of the Second Judicial District Court from March, 1886, to January 4th, 1888.....	Wilkins.	1,161.57
16	To T. A. Perkins, late clerk of the First Judicial District Court, for services as clerk of the said court from March 10th, 1886, to February 19th, 1887.....	Perkins.	593.75
17	To John M. Zane, for services as clerk of the Third Judicial District Court from June 30th, 1886, to July 30th, 1887.....	Zane.	1,056.35
18	To be applied on the roads and bridges in the Territory, to be drawn and expended under the direction of the county courts of the several counties named below:		
	Tooele County.....		\$1,500.00
	Emery County.....		3,000.00
	Millard County.....		1,500.00
	Sevier County.....		2,500.00
	Iron County.....		1,500.00
	Beaver County.....		2,000.00
	Juab County.....		1,000.00
	San Juan County.....		3,500.00
	Garfield County.....		1,500.00
	Kane County.....		2,500.00

	Morgan County.....	\$1,000.00
	Summit County.....	1,250.00
	Wasatch County.....	1,250.00
	Davis County.....	2,000.00
	Box Elder County.....	1,500.00
	Rich County.....	1,000.00
	Piute County.....	1,500.00
	Salt Lake County.....	1,000.00
	Uintah County.....	1,000.00
	Utah County.....	1,000.00
	Washington County.....	2,200.00
	Weber County.....	2,000.00
	Cache County.....	3,000.00
	San Pete County.....	1,000.00
Baldwin.	19 To Jesse Baldwin, sheriff of Beaver County, for services in the Sec- ond Judicial District Court from Sept. 6th, 1886, to December 24th, 1887.....	414.00
Stewart.	20 To J. Z. Stewart, for services and mileage as witness in the First District Court	13.30
McMillan.	21 To H. G. McMillan, for services as clerk of the Third Judicial Dis- trict Court from Sept. 2nd to Dec. 31st, 1887.....	357.15
Bayliss.	22 To Hanson Bayliss, assessor and collector of San Juan county, for relief on account of uncollecti- ble taxes for the years 1885 and 1886	59.29
Smoot, Jr.	23 For contingent expenses of the House during the (28th) twenty- eighth session, to be drawn on the order of W. C. A. Smoot, Jr. sergeant-at-arms, and to be dis- bursed by him on bills certified to by the speaker of the House..	811.40
Insane Asylum	24 To the Territorial Insane Asylum, for the payment of the liabilities of the asylum to Dec. 31, 1887, (as reported page 10, in the bi- ennial report of the board of di-	

	rectors, 1888) to be drawn on the order of the board of directors ..	\$26,030.61	
25	To the Territorial Insane Asylum, for the payment of two and one-half months interest on \$17,000.00 to March 15, 1888, to be drawn on the order of the board of directors.....	368.33	Same.
26	To the Territorial Insane Asylum, for the expenses of the asylum for the years 1888 and 1889, one-half to be drawn in 1888 and one-half in 1889, to be drawn on the order of the board of directors.....	52,000.00	Same.
27	For the Territorial Insane Asylum, for the purchase of land adjoining the asylum grounds, to be drawn on the order of the board of directors. of so much thereof as may be necessary.....	15,000.00	Same.
28	To A. Milton Musser, for services acting as fish commissioner to Dec. 31, 1887.....	500.00	Musser.
29	For the payment of court reporters in Territorial criminal cases (audited and certified to by the judge of the district court,) in which the service has been performed for 1888 and 1889, or so much thereof as may be necessary.....	7,000.00	Court reporters payment.
30	To Gilbert R. Belknap, sheriff of Weber county, for attendance on the District Court of the First Judicial District, May, and Nov. terms, 1887.....	312.00	Belknap.
31	For salary of auditor of public accounts for the years 1888 and 1889, one-half to be drawn each year.....	3,600.00	Auditor.
32	For salary of Territorial treasurer for the years 1888 and 1889, one-		Territorial treasurer.

		half to be drawn each year.....	\$2,500.00
Auditor, etc.	33	For incidental expenses of the offices of auditor, librarian, sealer of weights and measures, and recorder of marks and brands, for the years 1888 and 1889, or so much thereof as may be necessary.....	1,400.00
Territorial treasurer.	34	For incidental expenses of the office of Territorial treasurer, for the years 1888 and 1889, one-half to be drawn each year, or so much thereof as may be necessary.....	500.00
School commis-sioner.	35	For salary of Territorial commissioner of schools for the years 1888 and 1889, to be drawn quarterly.....	2,500.00
Lambert.	36	To George C. Lambert, public printer, for printing blanks, etc. for the 28th session, as per bill..	1,916.17
Territorial librarian.	37	For salary of Territorial librarian for the years 1888 and 1889, to be drawn quarterly; <i>Provided</i> , that the compensation shall include all the incidental expenses connected with the librarian's office	500.00
Clerk First District.	38	For service of clerk of the First Judicial District Court for the years 1888 and 1889, to be drawn quarterly.....	1,600.00
Clerk Second District.	39	For services of clerk of the Second Judicial District Court for the years 1888 and 1889, to be drawn quarterly.....	1,200.00
Clerk Third District Court.	40	For services of clerk of the Third Judicial District Court for the years 1888 and 1889, to be drawn quarterly..... <i>Provided</i> , that the amounts specified in items 38, 39 and 40, shall be in lieu of all fees now allowed by law in Territorial criminal cases.	1,200.00

- 41 For legal services for the offices of Territorial auditor and treasurer, one-half to be drawn in 1888 and one-half in 1889.....\$ 1,000.00
Auditor and treasurer.
- 42 To pay for the compiling, indexing, printing, binding and distributing the laws of Utah..... 12,000.00
 or so much thereof as may be necessary, to be drawn upon the order of Samuel R. Thurman, chairman of the Committee on Compilation of the Laws, upon vouchers of said committee, to be certified by their secretary, John E. Carlyse.
Compilation laws of Utah
- 43 To William Reeves, ex-assessor and collector of Davis County, for relief, on account of uncollectible Territorial taxes..... 421.72
Provided, Said Wm. Reeves pay the Territorial treasurer, before the first day of June, 1888, the remainder of delinquent Territorial taxes due from him, viz: \$517.29.
Reeves.
- 44 To A. W. Ivins, assessor and collector of Washington County, for relief on account of uncollectible Territorial taxes for the years 1885 and 1886,..... 39.58
Ivins.
- 45 For contingent expenses of the Council during the twenty-eighth session, to be drawn on the order of J. Golden Kimball, sergeant-at-arms, and be disbursed by him on bills certified by the president of the Council..... 440.00
Kimball.
- 46 To John W. Turner, sheriff of Utah County, for services as sheriff in attendance on the district court of the First Judicial District, from the 20th of Sept. 1887, to the 19th of Nov. 1887,.. 138.00
Turner.

Governor.

47 For private secretary and contingent expenses of the Executive office for the years 1888 and 1889, one-half to be drawn each year,..... 2,250.00

SEC. 2. This bill shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 8, 1888.

CHAPTER LIX.

TERRITORIAL BONDS.

AN ACT Providing for Negotiating a Loan for Certain Public Purposes.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That,* WHEREAS, for the advancement of education, the Territory has expended the sum of eighty thousand dollars towards the construction of a Territorial university, which is still incomplete; and WHEREAS, for the protection of society and the reformation of juvenile offenders, a reform school is deemed a necessity; and WHEREAS, for the best interests of the Territory, and for the promotion of agriculture, this Legislative Assembly has appropriated a large sum to establish an agricultural college, and an agricultural experiment station, and WHEREAS, the education of the deaf mutes of the Territory should be provided for, the Governor and Secretary, and their successors in office, and D. H. Peery, P. T. Farnsworth and James Sharp shall constitute a board of commissioners to be styled the Loan Commissioners of the Territory of Utah, and shall exercise the powers and duties hereafter provided.

Names of loan commissioners.

Duty.

SEC. 2. It shall be and is hereby declared the duty of the loan commissioners to provide for negotiating a loan for the Territory, in a sum not to exceed one hundred and fifty thousand

dollars, by the issuing of negotiable coupon bonds of this Territory. Provided that said commission shall not issue bonds for a greater sum than shall be set apart in appropriations at this session of the Legislature for the aforesaid purposes. Limitation.

SEC. 3. Said bonds shall be issued in denominations of one thousand dollars, and shall bear interest at a rate to be fixed by said loan commissioners, but in no case shall exceed five per cent. per annum, which shall be paid semi-annually at the Deseret National Bank in Salt Lake City, Utah Territory; or at such bank in the City of New York, State of New York, as may be designated by said loan commissioners, at the option of the purchasers of said bonds, place of payment to be mentioned in the bonds, on the first day of January and July of each year; the principal of said bonds shall be made payable in lawful money of the United States within twenty years after the date of the issue; they shall bear the date of their issue, state when, where and to whom payable, rate of interest and when and where payable, and shall be signed by the loan commissioners and have the seal of the Territory affixed thereto, and countersigned by the Territorial treasurer, and bear his official seal, and shall be registered by the Territorial auditor in a book kept by him for that purpose, and the faith and credit of the Territory is hereby pledged for the payment of said bonds and the interest accruing thereon as herein provided. Bonds.

SEC. 4. Coupons for the interest shall be attached to each bond, so that they may be removed without injury or mutilation to the bond; they shall be consecutively numbered, and bear the same number of the bond to which they are attached. The said coupon shall cover the interest expressed in said bond from the date of the issue until paid; but in no case shall said bonds bear interest nor shall any interest be paid thereon for any time before their delivery to the purchaser as hereinafter provided. Coupons.

SEC. 5. Whenever the said loan commis-

Advertisement
of sale of
bonds.

sioners shall have arranged to make a loan of said sum of one hundred and fifty thousand dollars, or any part thereof, they shall direct the Territorial treasurer to advertise for a sale of the bonds to be issued for that purpose, by causing a notice of said sale to be published for the period of one month in the three daily newspapers published in Salt Lake City, the capital of the Territory, and at least ten insertions in a newspaper published in New York City, in the State of New York, in the City of San Francisco, State of California, and in the City of Boston, State of Massachusetts; such notices shall specify the amount of bonds to be sold, the rate of interest they shall bear, the place, day and hour of sale, and that bids will be received by said treasurer for the purchase of said bonds within one month from the expiration of said publication in Salt Lake papers, and at the place and time named in said notice, the said treasurer and loan commissioners shall open all bids received by him and shall award the purchase of said bonds, or any part thereof, to the highest bidder or bidders therefor; but in no case shall said bonds be sold for less their face or par value and the accrued interest at the time of their disposal; *Provided*, that said loan commissioners shall have the right to reject any and all bids, and, *Provided further*, that they may refuse to make any award unless sufficient security shall be furnished by the bidder or bidders for the compliance with the terms of their bids.

Highest bidder.

Security.

Engraved
bonds.

SEC. 6. When a sale of said bonds, or any of them, shall be awarded by the loan commissioners, they shall provide the necessary engraved bonds, as in this act provided, and any expense incurred by them for the publication of said notices, costs of remitting funds for the payment of interest or money on said bonds, and all other incidental expenses under the provisions of this act, shall be paid out of the general fund of said Territory, upon the order of the Territorial auditor, and a sum of money sufficient to

cover said costs and expenses is hereby appropriated out of said funds. They shall, from time to time, after signing said bonds, deliver them to the Territorial treasurer, taking his receipt therefor and charge him therewith. Before the issuance of any such bonds the said treasurer shall give the Territory of Utah an additional official bond, with two or more sureties, in the sum of one hundred and fifty thousand dollars, which bond shall be approved by the Governor and deposited and filed with the Secretary of the Territory and recorded by him in a book to be kept for that purpose. And the said treasurer shall stand charged upon his official bond for the faithful performance of the duties required of him under this act.

Expenses.

Treasurer's bond to be approved by Governor and to be recorded.

SEC. 7. The Territorial auditor shall draw his warrant on the Territorial treasurer, payable to the order of said treasurer, for the amount of interest which shall fall due on the first day of January and July of each year, which said interest warrant shall be drawn at least one month previous to the maturing of the interest, and the sum of seven thousand five hundred dollars, or so much thereof as may be necessary, is hereby appropriated and set aside from the general fund of the Territory, from year to year, to pay the interest upon said bonds.

Interest, how paid.

SEC. 8. At the expiration of ten years after the issuing of said bonds, there shall be set apart and is hereby appropriated, out of the general funds in the hands of the Territorial treasurer, annually not less than the sum of fifteen thousand dollars, to be drawn on the warrant of the auditor, to pay the principal of said bonds as the same shall fall due or be called for as provided in this act. Said amount shall be held and placed by the treasurer in a fund to be known as the redemption fund for the redemption of said bonds; *Provided*, that the provisions of this section shall not be construed to prohibit the legislature from making provisions for the redemption of any or all of said bonds after the expiration of said ten years.

Redemption fund.

Notice by treasurer.

Bonds when not to draw interest.

Duty of auditor and treasurer.

Report of commissioners.

SEC. 9. Whenever, after the expiration of ten years from the date of issuance of any bonds under this act, there is available, as provided in the preceding section, the sum of fifteen thousand dollars or more, it shall be the duty of the Territorial treasurer to advertise, as in the manner of the advertising by the loan commissioners for bids for sale for bonds, which advertisement shall state the amount of money in the said redemption fund and the number of bonds, numbering them in the order of their issuance, commencing at the highest number then outstanding, which such fund is set apart to pay and discharge, and the date when they will be paid, and if such bonds so numbered in such advertisement shall not be presented for payment and cancellation at the expiration of the date mentioned in the publication, then such fund shall remain in the treasury to discharge such bonds whenever presented, but they shall draw no interest after the expiration of such publication. Before any such bond shall be paid, they shall be presented to the Territorial auditor, who shall endorse on each bond the amount due thereon, and shall write across the face of each bond the date of its surrender and the name of the person surrendering; the Territorial treasurer shall, within ten days after the sale of any such bonds, file with the Territorial auditor a verified statement showing their number, rate of interest, date, and amount of sale; when, where, and to whom payable, and the Territorial auditor shall keep a record of all bonds issued and disposed of by the Territorial treasurer, showing their number, rate of interest, date and amount of sale; when, where, and to whom payable, and when presented for redemption, the date, amount due thereon and person surrendering.

SEC. 10. It shall be the duty of said board of loan commissioners to make a full report of all their proceedings had under the provisions of this act, biennially to the Territorial Legislative Assembly upon the first day of the session.

SEC. 11. No bonds issued under the provisions of this act shall be taxed for any purpose within this Territory. Not to be taxed.

SEC. 12. This act shall be in force from and after its approval.

Approved March 8, 1888.

CHAPTER LX.

JUDGES, DISTRICT COURTS, CONTINGENT EXPENSES.

A RESOLUTION Appropriating Money to Defray the Expenses of the Offices of the District Judges of Utah Territory.

Resolved, by the Governor and Legislative Assembly of the Territory of Utah: That the sum of five hundred dollars per annum is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to defray the contingent expenses of the office of the judge of each of the district courts of the Territory of Utah, and to purchase stationery, etc., during the years 1888 and 1889, said amount to be drawn upon the order of the judge of said court. Contingent expenses.

Approved March 8, 1888.

CHAPTER LXI.

REFORM SCHOOL.

AN ACT to Establish a Territorial Reform §

SECTION 1. *Be it Enacted by the Governor and Legislative Assembly of the Territory of Utah:* That there shall be established, at such a point in Weber county as the trustees hereinafter provided for shall determine, a Territorial Reform Reform school.

School, for the confinement, discipline, education, employment and reformation of juvenile offenders, as hereinafter provided.

Trustees.

SEC. 2. The trustees shall consist of the Governor, Secretary of the Territory and the prosecuting attorneys of the counties of Salt Lake, Utah, Davis, Weber and Box Elder, and their successors in office, all of whom shall be ex-officio trustees. The trustees shall be required to immediately enter upon the duties of their office and, with the exception of the Governor and Secretary, shall qualify by giving bonds with security to the people of the Territory of Utah, in the penal sum of five thousand dollars each, conditioned for the faithful performance of their duties, to be approved by, and filed with the Auditor of Public Accounts.

Trustees to appoint certain officers, etc.

SEC. 3. The trustees shall elect one of their number president; they shall appoint a superintendent, a secretary and a treasurer. Said trustees shall take charge of the general interests of the institution; shall have power to enact by-laws and rules for the regulation of all its concerns, not inconsistent with the laws of the Territory; to see that its affairs are conducted in accordance with the requirements of law, and that strict discipline is maintained therein; to provide employment and instruction for the inmates to appoint a steward, a teacher or teachers, and such other officers as in their judgment the wants of the institution may require, and prescribe their duties; to exercise a vigilant supervision over the institution, its officers and inmates; to remove any officer at their pleasure, and determine the salaries to be paid to the officers appointed by them, and shall also require the secretary, treasurer and superintendent to give bonds in such penal sums as they shall deem proper.

Bonds of appointees.

Plans, etc., school buildings.

SEC. 4. The trustees shall procure and adopt plans, drawings and specifications for the construction of the Reform School buildings, and shall make provision for the erection of the buildings,

and cause the same to be carried out in accordance with such plans and specifications, and on such terms as they may deem proper.

SEC. 5. The trustees and other officers shall have no pecuniary interest, direct or indirect, in the furnishing of any building materials, or in any contract for the same, or in any contract for labor in the erection of said Reform School, nor in any contract for any labor, material, or supplies for the maintenance thereof. Trustees, nor appointees, not to be interested

SEC. 6. The plans and specifications for said Reform School shall be upon the basis of accommodating not to exceed two hundred juvenile offenders at one time. Extent of accommodations.

SEC. 7. To carry out the provisions of this act, there is hereby appropriated out of the treasury of this Territory of any moneys not otherwise appropriated, the sum of seventy-five thousand dollars, or as much thereof as may be necessary, and the auditor of public accounts is hereby authorized to draw his warrants on the Territorial treasurer in favor of the trustees of said Reform School, for said sums as the same may be needed. Appropriation.

SEC. 8. The trustees shall make an itemized report to the Legislative Assembly during the first ten days of its session in the year 1890, and biennially thereafter, of all the expenditures made by them for the uses of the reform school during the preceeding two years. They shall, at the same time, lay before the Legislative Assembly, a report of the condition of the institution, together with a full report of the superintendent, and a list of officers and their salaries, with an estimate of the value of the personal property of the Territory in connection with the school. Report of trustees.

SEC. 9. Each trustee shall receive as his compensation, four dollars per diem, for each meeting at which he shall be present, payable out of any moneys appropriated for the use of the reform school; *Provided*, That any trustee shall be allowed for traveling expenses, mileage at the rate of ten cents per mile, for one way only, Compensation of trustees.

for the distance necessarily traveled in attending the meetings of the trustees.

Instruction.

SEC. 10. The trustees shall cause the boys and girls under their charge to be instructed in correct principles of morality and in such branches of useful knowledge as are adapted to their age and capacity, and in some regular course of labor, either mechanical, manufacturing, or agricultural, as is best suited to their age, strength, disposition and capacity, and as may seem best adapted to secure their reformation and future benefit.

Visits, etc., of trustees.

SEC. 11. It shall be the duty of the trustees to visit the reform school as often as they may deem it necessary, to inquire into all matters connected with the government and discipline thereof; and one or more of the trustees, who may be designated by them, shall visit the school, once in every month, and examine into the progress and behavior of the boys and girls in their school-room, and labor; and inspect the register and accounts of the superintendent. A record shall be kept of these visits in the superintendent's books. The trustees shall, at all times, have free access to all parts of the reform school, and may inspect all books, papers, documents, communications and correspondence pertaining thereto.

Commitment by order of court.

SEC. 12. When a boy or girl under the age of eighteen years shall, in any of the district courts in this Territory, be found guilty of any crime except murder, the court may, if in its opinion, the accused is a proper subject therefor, instead of entering judgment, cause an order to be entered that said boy or girl be sent to the reform school in pursuance of the provisions of this act; and a copy of said order, duly verified by the clerk, under seal of said court, shall be a sufficient warrant for taking said boy or girl to the school, and for his or her commitment to the custody of the superintendent thereof.

SEC. 13. When a boy or girl under the age of eighteen years shall be convicted before a

justice of the peace of any crime, the magistrate may, in his discretion, send such a boy or girl, together with all the papers filed in his office on the subject, under the control of some officer, to the judge of the district wherein he resides, who shall then issue an order to the parent or guardian of said boy or girl, or such person as may have him or her in charge, or with whom he or she last resided, or one known to be nearly related to him or her, or if he or she be alone and friendless, then to such a person as said judge may appoint to act as guardian for the purpose of the case, requiring him or her to appear at a time and place stated in said order, to show cause why the said boy or girl should not be committed to the reform school for reformation and instruction.

Justice peace
to send boy or
girl to district
court when
order to show
cause, etc.

SEC. 14. Said order shall be served by the sheriff or other officer by delivering a copy thereof, personally to the party to whom it is addressed, or leaving it with some competent person at the place of residence or business of said party, and immediate return shall be made to the said judge of the time and manner of such service. The fees of the sheriff or other officer under this act shall be the same as now allowed by law for like services.

Order, how
served.

SEC. 15. At the time and place mentioned in said order or at the time and place to which the hearing may be adjourned, if the parent or guardian to whom said order may be addressed shall appear, then in his or her presence, or if he or she fail to appear, then in the presence of some suitable person whom the said judge shall appoint as guardian for the purpose of the case; said judge shall proceed to an examination of the case and hear such testimony in relation thereto as may be produced, and if upon such examination and hearing the said judge shall be satisfied that the boy or girl is guilty of crime and is a fit subject for the Territorial reform school, he may commit him or her to the said school by warrant; and if said judge shall be satisfied that the ac-

Proceeding in
the district
court.

cused is not guilty, he shall forthwith discharge the accused; but if satisfied that the accused is guilty, but not a fit subject for said school, he must remand the accused to said justice of the peace for sentence.

Judge's warrant shall certify.

SEC. 16. The judge shall certify in the warrant the place in which the boy or girl resided at the time of his or her arrest, also his or her age as near as can be ascertained and command the said officer to take the said boy or girl and deliver him or her without delay to the superintendent of said school or other person in charge thereof at the place where the same is established, and such certificate, for the purposes of this act shall be conclusive evidence of his or her residence or age. Accompanying said warrant the judge shall transmit to the superintendent by the officer executing it a statement of the nature of the complaint, together with such particulars concerning the boy or girl as the judge is able to ascertain; *Provided*, The expense of conveying any boy or girl committed by the district court to said reform school or for returning him or her to his or her parents or guardians after his or her release therefrom, shall be at the expense of the Territory.

Statement by the judge.

Discharge of boy or girl.

SEC. 17. Every boy or girl committed to the reform school shall remain until he or she shall arrive at the age of majority or is legally discharged. Such discharge shall be a complete release of all penalties incurred by conviction of the offense for which he or she was committed.

Reward for good conduct.

SEC. 18. No boy or girl shall be committed to said reform school for a longer term than until he or she attain the age of majority; but the trustees by their order may at any time after six months service, discharge any boy or girl from said school as a reward of good conduct in the school and upon satisfactory evidence of reformation.

Misdemeanor.

SEC. 19. Every person who unlawfully aids or assists any boy or girl lawfully committed, in escaping or attempting to escape therefrom, or

knowingly conceals said boy or girl after his or her escape, shall be deemed guilty of a misdemeanor.

SEC. 20. If any boy or girl convicted of a felony, committed to the reform school, shall prove unruly or incorrigible, or if his or her presence shall be manifestly and persistently dangerous to the welfare of the school, the trustees shall have power to order his or her removal to the county from which he or she came and delivery to the sheriff of the said county, or the marshal of the Territory, and proceedings against him or her shall be resumed as if no warrant or order committing him or her to the reform school had been made.

When boy or girl may be removed, and delivered over to local authorities.

SEC. 21. If the trustees are unable to obtain by gift or purchase at reasonable prices, the land and water rights which they deem necessary for the reform school, they may instruct the United States district attorney or the prosecuting attorney of Weber County, and such officer is hereby empowered to institute, in the name of the Territory, the necessary proceedings to acquire the title to the premises desired in the manner prescribed in Title 7, Chapter 45, (of the laws of 1884) of an act revising the Code of Civil Procedure of Utah Territory.

Lands and water rights.

Approved March 8, 1888.

CHAPTER LXII.

AGRICULTURAL COLLEGE.

AN ACT to Establish an Agricultural College and an Agricultural Experiment Station in Connection Therewith.

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That there shall be established the Agricultural College of Utah, to be located at any place in Cache county that may be designated by the trustees.

Location.

Appropriation. SEC. 2. For the purpose of erecting suitable school buildings and purchasing lands on which to conduct agricultural experiments, the sum of twenty-five thousand dollars, or so much thereof as is necessary, is hereby appropriated out of any money in the Territorial treasury not otherwise appropriated.

Trustees. SEC. 3. The Governor and Secretary of the Territory and the assessors of the counties of Cache, Davis, Utah, Salt Lake and San Pete counties and their successors in office, shall be ex-officio trustees for the Agricultural College.

Trustees and their powers and duties. SEC. 4. The trustees shall elect one of their number a president, and shall appoint a superintendent, a secretary and a treasurer. Said trustees shall take charge of the general interests of the institution, and shall have power to enact by-laws and rules for the regulation of all its concerns, not inconsistent with the laws of the Territory. They shall have the general control and supervision of the agricultural college, the farm pertaining thereto, and such lands as may be vested in the college by Territorial legislation, of all appropriations made by the Territory for the support of the same, and also of lands that may hereafter be donated by the Territory, or the United States, or by any person or corporation, in trust for the promotion of agricultural and industrial pursuits. They shall be required to immediately enter upon the duties of their office, and shall, with the exception of the Governor and Secretary, qualify by giving bonds with security to the people of the Territory of Utah in the penal sum on one thousand dollars each, conditioned for the faithful performance the duties of their office, to be approved by and filed with the auditor of public accounts.

Trustees, college building, contracts and bonds, receipts and accounts. SEC. 5. The trustees shall have supervision of the erection of the college buildings, and shall make all purchases and contracts for said buildings in accordance with such plans, drawings and specifications as the said trustees shall have adopted. They shall, in all contracts entered

into, require bonds to be given for the faithful performance of the same, and shall keep an accurate record of their proceedings, which shall embrace copies of all contracts entered into, and a minute and accurate record of all expenditures, showing the amount paid, to whom paid, and for what service rendered, and materials purchased, and whether paid on account or in performance of contract; and for all payments made, vouchers shall be taken

SEC. 6. The trustees shall make a report to the next general assembly of the Legislature, showing the amount of work done, the condition of the buildings, a detailed account of the expenditures on the same, the amount of land bought, its cost and condition, and the improvements thereon.

Report of trustees.

SEC. 7. The trustees shall not be interested directly or indirectly in any contract for any labor or materials for the the college buildings.

Trustees to have no interest in contracts, etc.

SEC. 8. The leading object of the Agricultural College of Utah shall be to teach such branches of learning as are related to agriculture and the mechanical arts, and such other scientific and classical studies as shall promote the liberal and practical education of the industrial classes in the several pursuits and professions of life.

Objects of the college.

SEC. 9. To effect the above stated leading object of said college, there shall be established therein a sufficient number of professorships for teaching the sciences related to agriculture and the mechanical arts, which professorships shall be filled by able and competent professors, aided by such assistants, tutors and other instructors as shall from time to time be necessary.

Professorships, etc.

SEC. 10. In the appointment of professors, instructors, and other officers and assistants of said college, and in prescribing the studies and exercises thereof, and in every part of the management and government thereof, no partiality or preference shall be shown by the trustees to one sect or religious denomination

Non-sectarian.

over another; nor shall anything sectarian be taught therein; and persons engaged in the conducting, governing, managing or controlling said college and its studies and exercises in all its parts, shall faithfully and impartially carry out the provisions of this act for the common good, irrespective of sects or parties, political or religious.

Trustees, when
to appoint pro-
fessors, etc.

SEC. 11. When the said college shall be ready for organization, the trustees shall establish the proper professorships, and appoint the professors and officers with their salaries and compensation. They can remove such officers at their pleasure.

Course of in-
struction.

SEC. 12. The course of instruction shall embrace the English language and literature, mathematics, civil engineering, agricultural chemistry, animal and vegetable anatomy and physiology, the veterinary art, entomology, geology and such other natural sciences as may be prescribed, technology, political, rural and household economy, horticulture, moral philosophy, history, book-keeping and especially the application of science and the mechanical arts to practical agriculture in the field.

Length of
course, lec-
tures.

SEC. 13. A full course of study in the institution shall embrace not less than four years. The trustees may institute a winter course of lectures for others than students of the institution, under necessary rules and regulations.

Academical
year, etc.

SEC. 14. The academical year shall consist of not less than nine calendar months, and may be divided into such terms by the trustees as in their judgment will best secure the object for which the college is founded.

Student not ad-
mitted, unless.

SEC. 15. No student shall be admitted to the institution who has not attained the age of fifteen years, and who does not pass a satisfactory examination in arithmetic, geography, grammar, reading, spelling and penmanship.

Faculty.

SEC. 16. The president of the trustees, the professors, tutors and superintendent shall constitute the faculty of the agricultural college.

SEC. 17. The trustees shall, with the advice

of the faculty, prescribe the books to be used in the institution, and confer for similar or equal attainments similar degrees and testimonials to those conferred by agricultural colleges elsewhere.

Books and
degrees.

SEC. 18. In connection with the said college there shall be established an agricultural experiment station to conduct original researches on the physiology of plants and animals; the diseases to which they are severally subject, with the remedies for the same; the chemical composition of useful plants at their different stages of growth; the comparative advantages of rotative croppings as pursued under a varying series of crops; the capacity of new plants or trees for acclimation in the Territory; the analysis of soils and water; the chemical composition of manures, natural and artificial, with experiments designed to test their comparative effects on crops of different kinds; the adaptation and value of grasses and forage plants; the composition and digestibility of the different kinds of food for domestic animals; the scientific and economic questions involved in the production of butter and cheese; the best methods of irrigation, with experiments designated to show the amount of water and number of waterings needed on different soils to produce the most abundant crops, and such other researches and experiments as bear directly on the agricultural industry of Utah Territory. Said agricultural station shall be conducted in accordance with the provisions of an act passed by Congress March 2, 1887, "An act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an act approved July 2, 1862, and of acts supplementary thereto."

Agricultural
experiment
station.

SEC. 19. The trustees of the Agricultural College shall take charge of the Agricultural Experiment Station, purchase suitable lands, erect needed buildings, and appoint necessary officers and assistants to conduct the experi-

Trustees' duty.

ments mentioned in the preceding section. They shall cause bulletins and reports of progress to be published and mailed as required in the act of Congress aforementioned.

Governor to
apply for Con-
gressional ap-
propriations.

SEC. 20. The Governor is hereby authorized to make application to the Secretary of the Treasury to obtain the appropriation made by Congress in the act above mentioned; as soon as the said College and Agricultural Experiment Station shall be entitled thereto, they shall execute and file with the Secretary of the Treasury an agreement to expend all moneys received under the aforementioned act for the sole and exclusive purpose and in the manner therein directed, and to maintain a farm of at least twenty-five acres in connection with the Agricultural College, and shall also execute and file with said secretary their bond in the penal sum of fifteen thousand dollars with two sufficient sureties approved by the auditor of public accounts.

Trustees to
give bonds.

Compensation.

SEC. 21. Each trustee shall receive as his compensation, four dollars per diem for each meeting of the board at which he shall be present, payable out of any moneys appropriated for the use of the Agricultural College; *Provided*, that any trustee shall be allowed for traveling expenses, mileage at the rate of ten cents per mile, for one way only, for the distance necessary traveled in attending the meetings of the trustees.

Approved March 8, 1888.

MEMORIAL.

MINES.

To the Honorable the Senate and House of Representatives of the United States in Congress Assembled:

Your memorialists, the Governor and Legislative Assembly of the Territory of Utah, would respectfully represent:

That the business of mining for the precious metals has become a great and growing industry in the Territory of Utah requiring large capital to develop and work the mines, and to supply the necessary reduction works.

That, in many cases, but small bodies of land are required to embrace the mines and for the proper working thereof, and such lands are generally located as to be valueless for any other purpose except for such mining.

That large amounts of money must be risked and that, too, where the returns are uncertain and speculative in opening up such mines, and in their general working, and that it has been the experience of the citizens of this Territory, as well as of the adjoining Territories, that such capital can be more readily obtained from Europe than in America;

That the passage by your Honorable Body of the act entitled "An Act to Restrict the Ownership of Real Estate in the Territories to American Citizens, and so forth," approved March 3, 1887, has been and will continue, unless modified, of great detriment to this vast industry:

That, the holding of this class of real estate by aliens cannot injure any one, and will result in great benefit to the people of this Territory, and more especially to that large and industrious class of its citizens engaged in this important and growing employment.

WHEREFORE, your memorialists earnestly pray, that said act commonly called the "Alien Land Act," may be so amended by your Honorable Body as to exclude from its operation mineral lands in the Territories, and your memorialists will ever pray, as in duty bound.

Approved January 26, 1888.

MEMORIAL TO CONGRESS.

ORPHANS' HOME.

To the Honorable, the Senate and House of Representatives in Congress Assembled:

We, your petitioners, the Governor and Legislative Assembly of the Territory of Utah, respectfully represent that the Orphans' Home and Day Nursery Association have established in Salt Lake City an "Orphans' Home and Day Nursery."

That the grounds and building now used for that purpose are entirely insufficient and inadequate for a Day Nursery and Orphans' Home; that there is great need for an institution in this Territory for the benefit of the orphans thereof. That at an early date the Territory of Utah in its Territorial capacity will be called upon to assume the care of orphans now in charge of said association.

That, in case the necessary lands could be procured of the Government on which to erect an Orphans' Home, a suitable building could be provided and erected thereon.

That, a large part of the reservation of Fort Douglas is unused and lies in immediate proximity to the City of Salt Lake, is convenient, easy of access and suitable in all respects for the desired purpose.

We therefore respectfully ask your Honorable Bodies to set apart and grant to the Territory of Utah, ten acres from and off the Fort Douglas Military Reservation for the erection thereon of an Orphans' Home for the orphans of this Territory.

Approved March 2, 1888.

MEMORIAL TO CONGRESS.

UTE INDIANS.

To the Honorable the Senate and House of Representatives in Congress Assembled:

Your memorialists, the Governor and Legislative Assembly of the Territory of Utah, represent that the measure (H. R. 1265) now pending before your Honorable Body, contemplating the removal of the Southern Ute Indians from their existing reservation in the State of Colorado, to the Territory of Utah, and massing them incongruously with the tribes already on the Uintah Reservation, is unjust in itself, and fraught with certain danger to the lives and property of all settlers in the valleys of Green River and its many tributaries on the eastern borders of this Territory.

These Utes are now the only tribe of Indians that has not passed through the process of subjugation which must precede a settled peace, and the proposed scheme of massing them incongruously with other tribes within the borders of this Territory, is unfair as well as dangerous to the white settlements in the eastern portions of Utah, and impolitic as well as unjust to the tribes already settled upon the Uintah Reservation, who have made considerable progress in the peaceful pursuits of civilization.

Numerous white settlements have already extended along the valleys of Green River and its tributaries, the lives and property of whose citizens would be exposed to the horrors the savage warfare that would naturally follow the importation of said Indians.

If these Southern Utes are not dangerous to the people of Colorado, there can be no necessity of their removal to this Territory; on the other hand, if their presence on their existing reservation is fraught with danger to the people of that State who are better able to restrain them in

peace within their present restricted limits, that fact furnishes a cogent reason why they should not be brought into Utah and placed on a wild border, where wholesome restraint or effectual pursuit would be rendered far more difficult.

Your memorialists therefore deprecate and protest against the said proposed measure, which means present dispossession to many white settlers on our eastern borders, and ultimately savage war against all white settlements in the valleys of Green River, in the eastern part of Utah, as well as discord, retrogression and demoralization to the Indians now settled on the Uintah Reservation who are abandoning their tribal organizations, and betaking themselves to agricultural and other industries of peace.

Your memorialists, on favorable answer, as in duty bound, will ever pray, etc.

Approved March 3, 1888.

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